

**THE ARIZONA STATE BOARD OF PHARMACY
HELD A REGULAR MEETING JUNE 19,2003
TUCSON, ARIZONA**

The following Board Members and staff were present: President Paul Draugalis, Vice President Dennis McAllister, William E. Jones, Daniel Ketcherside, Linda McCoy and "member-designate" Charles Dutcher; Compliance Officers Larry Dick, Ed Hunter, Cheryl Frush, Mitzi Wilson, and Dean Wright, Deputy Director Hal Wand and Executive Director L. A. Lloyd.

President Draugalis convened the meeting at 9:00 A.M. and welcomed the audience to the meeting. Deputy Director Wand described the law continuing education credit available and the procedure for receiving credit for attending this meeting. President Draugalis recognized Vice-President Dennis McAllister. Mr. McAllister presented a recognition plaque from the National Association of Boards of Pharmacy (NABP) to retiring Executive Director Lloyd. President Draugalis then presented a plaque from American Pharmacists Association to retiring Executive Director Lloyd. Executive Director Lloyd thanked everyone for their support. He then addressed the Board and the audience about his retirement. President Draugalis announced that Hal Wand has accepted the position of Executive Director upon Mr. Lloyd's retirement and that Cheryl Frush has accepted the position of Deputy Director. President Draugalis announced that Vice President Dennis McAllister was recently elected treasurer for NABP. President Draugalis also recognized Board Member Linda McCoy for being selected as the Pharmacist of the Year by the Arizona Pharmacy Association (APA). Mr. Lloyd also provided an overview of board member "designate" Charles Dutcher's status. Mr. Dutcher has received unanimous approval from the Senate Health Committee but has not yet received approval from the full Senate, which is required to assume the duties of a voting member of the Board.

AGENDA ITEM I - APPROVAL OF MINUTES

Following a review of the minutes and an opportunity for questions and **on motion by Mr. Ketcherside, and Ms. McCoy** the minutes of the Regular Meeting and the Executive Session on April 23-24, 2003 were unanimously approved.

AGENDA ITEM II - PERMITS/LICENSES

Pharmacy Permits:

Deputy Director Wand advised the Board that pharmacy permits shown on Schedule A of the agenda included several non-resident applications, he further indicated that there was one pharmacy permit application listed on the addendum and that all of the applications were in order and all fees have been paid.

Individuals representing Community Clinical Pharmacy and IDS Pharmacy were present and responded to questions from Board Members.

Community Clinical Pharmacy was represented by the new owner, Kristian Kaniski. Mr. Kaniski will assume the ownership of two pharmacy permits and a wholesale permit. Mr. Wand stated that Community Clinical pharmacy obtained a waiver in the 1980's to utilize a closed circuit television system for counseling patients on new prescriptions which were delivered to patients in an adjoining medical tower on the Desert Samaritan hospital campus. Mr. Kaniski stated that the pharmacy will continue to utilize the closed circuit television for counseling. Mr. Jones asked Mr. Kaniski to explain the wholesale aspect of the business. Mr. Kaniski stated that the pharmacy will supply drugs to physicians in the medical complex. The wholesale permit was obtained so that the pharmacy permit would not exceed legend drug sales by the pharmacy other than prescriptions of more than 5% of gross sales.

IDS Pharmacy was represented by Robert Stackhouse, the pharmacist-in-charge. President Draugalis asked Mr. Stackhouse to describe the business. Mr. Stackhouse stated that IDS has been in business since 1995 in Lake Havasu City, AZ. The main focus of IDS is to supply diabetic supplies to patients. He was asked why the company wanted to obtain a pharmacy permit. Mr. Stackhouse replied that the company is requesting a pharmacy permit because they would like to fill prescriptions for insulin and other medications for patients in addition to the non-prescription supplies currently being supplied. Ms. McCoy asked if IDS planned to enter into a collaborative practice agreement with any local physicians. Mr. Stackhouse replied that the pharmacy had no intent to enter into a collaborative practice agreement at this time. He stated the main emphasis will be to detail doctors to inform the doctors that they

are now also a dispensing pharmacy. Ms. McCoy asked if he planned to obtain certification as a diabetic educator. Mr. Stackhouse stated that he may pursue the possibility of becoming an educator in the future. Mr. Jones asked Mr. Stackhouse if the pharmacy would be a closed door pharmacy. Mr. Stackhouse replied that it will be a closed door pharmacy, but they would not limit their stock to diabetic medications. Mr. Jones asked if the pharmacy planned to dispense controlled substances. Mr. Stackhouse replied that they have applied for a Drug Enforcement Administration (DEA) registration and may dispense controlled substances in the future.

At the conclusion of questions from Board Members and **on motion by Mr. McAllister and Ms. McCoy**, the Board unanimously approved the pharmacy permits listed below, subject to final inspection by a Board compliance officer where appropriate.

RESIDENT (in Arizona)

<u>Pharmacy</u>	<u>Location</u>	<u>Owner</u>
Community Clinical Pharmacy	1520 S. Dobson Rd, Suite 219, Mesa, AZ. 85202	(O) Apoteka Compounding LLC
Community Clinical Pharmacy	1450 S. Dobson Rd. Suite A102, Mesa, AZ. 85202	(O) Apoteka Compounding LLC
CVS Pharmacy #5026	1212 S. Greenfield Rd. , Mesa, AZ. 85204	Southern Greenfield CVS LLC
CVS Pharmacy #5303	9152 E. Brown Rd., Mesa, AZ. 85207	Mesa Brown CVS LLC
CVS Pharmacy #5315	2005 N. Dobson Rd., Chandler, AZ. 85224	Chandler Warner CVS LLC
CVS Pharmacy #5477	15474 W. Greenway Rd., Surprise, AZ. 85379	Surprise CVS LLC
Eckerd Drugs #5321	Scottsdale Rd. & Ashler Hills Dr., Scottsdale, AZ.	Eckerd Corporation
Eckerd Drugs #5329	1610 E. Camelback Road, Phoenix, AZ 85016	Eckerd Corporation
Eckerd Drugs #5334	83 rd Ave. & Thunderbird Road, Phoenix, AZ.	Eckerd Corporation
Fox Infusion	2626 E. Fort Lowell, Suite 102, Tucson, AZ. 85716	Fox Infusion Inc.
IDS Pharmacy	124 N. Lake Havasu Ave., #104, LHC, AZ 86403	Ideal Diabetic Services
Phoenix Long Term Care	4630 E. Elwood St. Suite 15, Phoenix, AZ. 85040	Korman LLC
Phoenix Memorial Hospital	1201 S. 7 th Avenue, Phoenix, AZ. 85007	(O) VHS of South Phoenix Inc.
Safeway Pharmacy #2618	440 N. Estrella, Goodyear, AZ. 85338	Safeway Inc.
Safeway Pharmacy #2644	1855 N. Power Rd., Mesa, AZ. 85207	Safeway Inc.
Safeway Pharmacy #2648	2125 N. Highway 70, Thatcher, AZ. 85552	Safeway Inc.
Target Store #T-0855	6500 E. Grant Rd., Tucson, AZ. 85715	Target Corporation
Walgreens Drug #6784	2024 W. Main St., Mesa, AZ, 85201	Walgreen Arizona Drug Co.
Walgreens Drug #7304	2175 W. Ina Rd., Tucson, AZ. 85741	Walgreen Arizona Drug Co.
Walgreens Drug #7582	5115 N. Dysart Road, Litchfield Park, AZ. 85430	Walgreen Arizona Drug Co.
Walgreens Drug #7663	8280 W. Lower Buckeye Rd., Phoenix, AZ. 85353	Walgreen Arizona Drug Co.
West Valley Hospital Medical Center	13677 W. McDowell Rd., Goodyear, AZ. 85338	Hospital Development of West Phoenix Inc.

(O) = New Ownership

NON-RESIDENT (out of state)

<u>Pharmacy</u>	<u>Location</u>	<u>Owner</u>
American Diversified Pharmacies	3920 Lennane Dr. Suite 100, Sacramento, CA. 95834	Long Drug Stores, California
APAC Customer Services, Inc.	250 E. 90 th St., Davenport, IA. 52806	APAC Customer Services, Inc.
Hemophilia of the Sunshine State	4035 Tampa Rd., Suite 6500, Oldsmar, FL 34677	Lynnefield Drug Inc.
Liberator Respiratory Pharmacy	504 McCurdy Avenue South, Rainsville, AL. 35986	Liberator Medical Supply Inc.
OptionMed Inc.	2824 Corporate Way, Miramar, FL. 33025	OptionMed Inc.
Plus Medical Supplies & Equipment	3855 SW 137 th Ave., Suite 10, Miami, FL. 33175	Plus Medical Supplies & Equipment Corp.
Star Medical Rx	700 NW Argosy Parkway, Riverside MO. 64150	Star Holdings Group LLC
United States Pharmaceutical Group	13650 NW 8 th St. Suite 109, Sunrise, FL. 33325	United States Pharmaceutical Group, LLC
Univeral Pharmacy Solutions	2727 Philmont Ave, Suite 112, Huntington Vly, PA. 19006	Olga Kucherovsky
Veterinary Pharmacies of America	2854 Antoine, Houston, TX. 77092	Veterinary Pharmacies of America, Inc.

(O) = New Ownership

Wholesale Permits

Deputy Director Wand summarized the details about the wholesale permits on the agenda for the Board and indicated that the applications were in order and all fees have been paid.

Individuals representing Kenco Medical Inc, Community Clinical Pharmacy, J-Med, and Diamondback Tactical LLLP, were present and responded to questions from Board Members.

Kenco Medical Inc. was represented by the owner, Frank Kendrick. President Draugalis asked Mr. Kendrick to tell the Board about his business. Mr. Kendrick stated that his company wanted to obtain a wholesale license to supply medications to practitioners at jails and clinics. Mr. Wand asked if Mr. Kendrick planned to keep the pharmacy open for which he had previously obtained a pharmacy permit. He said that he planned to keep the pharmacy open. As of June 19, 2003, Mr. Kendrick stated that the pharmacy has not filled any prescriptions. Mr. Kendrick stated that he does not have a DEA license to sell controlled substances. Mr. Wand asked Mr. Kendrick if he knew about a fraudulent scam that people use to obtain specially priced prescription items using the pharmacy permit and then resell them for a profit using the wholesale permit. Mr. Kendrick replied he had never heard of such a scam. President Draugalis reminded Mr. Kendrick not to co-mingle products obtained for wholesale with his pharmacy purchases. Mr. Jones requested that a compliance officer follow-up in 6 months by performing an inspection and requested that Mr. Kendrick return after that inspection to a regularly scheduled Board meeting to inform the Board about the businesses.

Community Clinical Pharmacy was represented by the new owner, pharmacist Kristian Kaniski who stated that the pharmacy would continue selling more than 5% of its prescription items to practitioners so he is obtaining a wholesale permit to remain in compliance with Board rules.

J-Med was represented by the owner, Steve Henley. President Draugalis asked Mr. Henley to describe his business. Mr. Henley stated that his company plans to wholesale hard to find medications and specialty pharmaceuticals. President Draugalis asked where he could obtain the hard to find medications. Mr. Henley said that if he is aware of a shortage of product he uses a network of small wholesalers that he has cultivated over the years to obtain the product.

Diamondback Tactical was represented by one of the owners, Amy Beck. Mr. Draugalis asked Ms. Beck to describe her business. She stated that Diamondback Tactical provides body armor and emergency medical packs to military and law enforcement. She stated in the advanced life-saving kit are intravenous bags of Normal Saline and that is why they are requesting a wholesale permit. President Draugalis reminded Ms. Beck that they should be aware of the storage conditions, sales restrictions and expiration dates on the products.

At the conclusion of questions from Board Members and on motion by Mr. Jones and Ms. McCoy, the Board unanimously approved the following wholesale permits with the stipulation that Kenco Medical Inc. be inspected by a compliance officer in 6 months and appear at the January Board meeting to update the Board on their business. All permits are subject to final inspection by the compliance officer where appropriate.

<u>Wholesaler (all Full Service)</u>	<u>Location</u>	<u>Owner</u>
Community Clinical Pharmacy	1450 S. Dobson Rd., Suite A102, Mesa, AZ. 85202	Kristian Kaniski
Diamondback Tactical LLLP	16661 N. 84 th Ave., Peoria, AZ. 85382	Diamondback Tactical LLLP
General Supply Wholesaler Inc.	2922 N. 35 th Ave., Suite 4, Phoenix, AZ. 85017	General Wholesale Supply
J-Med	2009 E. 5 th St. #1, Tempe, AZ. 85281	J-Med Corporation
Kenco Medical Inc.	724 N. Industrial Dr., #7B, Camp Verde, AZ. 86322	Frank Kendrick
W.A. Butler Company	4635 W. McDowell Rd., Suite #130, Phoenix, AZ. 85035 (O)	W. A. Butler Company

(O) = New Ownership

Manufacturer Permits

Deputy Director Wand briefed the Board about the manufacturer permit on the agenda and indicated that the application was in order and all fees have been paid.

Arizona Production & Packaging was represented by Hahn Nguyen, Pharmacist-In-Charge. President Draugalis asked Mr. Nguyen to describe the business. He stated that Arizona Production & Packaging is responsible for labeling and manufacturing herbs, vitamins, and over-the-counter cough and cold preparations. The cough and cold medications are liquid formulations. He stated that currently they have one client and it is Vita-Source in Canada. President Draugalis asked if they will market to other individuals. Mr. Nguyen said that they will market generic private label products for any client. Mr. Jones asked about the production schedule and if Mr. Nguyen would be available during production runs. Mr. Nguyen said that he will be available during production runs and that they will occur approximately three times a month. Mr. Jones asked about stability testing. Mr. Nguyen stated that the company uses an independent lab to perform the required testing. Mr. Wand asked if they maintain a reserve sample of each product and Mr. Nguyen replied affirmatively. Mr. Nguyen also stated that a product cannot be shipped till the lab results are returned. Ms. McCoy asked if the company is FDA approved and Mr. Nguyen stated that a current FDA registration is in place.

At the conclusion of questions from Board Members and **on motion by Mr. McAllister and Mr. Ketcherside**, the Board unanimously approved the manufacturer permit below, subject to final inspection by the compliance officer where appropriate.

<u>Manufacturer</u>	<u>Location</u>	<u>Owner</u>
Arizona Production & Packaging	1102 W. Southern, Suite 4, Tempe, AZ. 85282	Peter Reilly

Pharmacist and Pharmacy Intern Licenses

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

Pharmacists licenses 13610 through 13667 and Pharmacy Interns I05927 through I05984. For a complete list of individual names see attachments.

AGENDA ITEM III - SPECIAL REQUESTS

- #1 **Wil Counts RPh, PhD**, appeared on his own behalf to request a reduction or elimination of the 400 intern hours required to reinstate an inactive pharmacist license after at least a year of inactivity. President Draugalis asked Mr. Counts to explain why he is requesting the reduction in intern hours. Mr. Counts explained to the Board that he has been a licensed psychologist since 1977 and is taking a sabbatical to complete post-doctoral work in psychopharmacology. While on sabbatical, Mr. Counts would like to work part-time as a pharmacist. He stated that he last worked in a pharmacy in the early 1990's. He explained that as a psychologist he counsels patients on multiple drug therapies. He states that he has completed various continuing education (CE) programs including a program on HIPAA requirements. He provided documentation of programs completed. Mr. Counts stated that he feels that he can safely practice by doing CE on new drugs. President Draugalis asked Mr. Counts if he has been behind a pharmacy counter in the last 12 months. Mr. Counts replied that no he has not filled prescriptions in the last 12 months, but has visited a local pharmacy to refresh his skills. Mr. McAllister explained to Mr. Counts that the Board has many requests for reduction in intern hours, he felt that practical experience is necessary even though Mr. Counts has demonstrated knowledge of pharmacology. **On motion by Mr. McAllister and Mr. Ketcherside**, the Board approved a reduction in intern hours from the maximum of 400 hours to 200 hours. The Board also required that Mr. Counts take and pass the multi-state Jurisprudence Exam (MJPE) administered by the NABP.

- #2 **Robert Ellis Hall** appeared on his own behalf to request permission to pursue licensure by reciprocating from his active New York license. President Draugalis opened the discussion by asking Mr. Hall to explain why he was required to appear before proceeding with the process of reciprocity. Mr. Hall explained that he plead guilty to 3 counts of unprofessional conduct in 1995 in New York. Mr. Hall stated that he had made several dispensing errors and an administrator at one of the nursing home facilities he serviced reported the mistakes because she was attempting to change pharmacy providers. The reports were referred to the Board of Regents in New York. Mr. Hall plead guilty and was ordered to pay a \$2,000 fine. He was also placed on probation for one year. He stated that he changed the way he practiced pharmacy as a result of this experience. His license in New York was reinstated and is currently in good standing. Mr. Jones asked Mr. Hall if he had worked full or part-time in the past year. Mr. Hall stated that he sold a pharmacy and had performed in a pharmacist relief capacity since that time. Mr. Dutcher inquired if Mr. Hall was currently practicing in New York. Mr. Hall stated that he has moved to Arizona and has been offered a job with Walgreens in Sedona at 32 hours a week. **On motion by Mr. Jones and Mr. McCallister**, the Board approved Mr. Hall's request to proceed with reciprocity.
- #3 **Harry F. Boysen** appeared with Walgreens supervisor Rick Gates to request a reduction or elimination of the 400 hours required to reciprocate his pharmacist license from the state of Washington. He has not actively practiced since 1982. President Draugalis asked Mr. Boysen to explain why he is requesting the reduction in intern hours. Mr. Boysen stated that he was hired by Walgreens in January of 2003 and started accumulating intern hours. He stated that he has completed roughly 800 intern hours since January, but did not realize he was required to obtain an intern license before practicing as a pharmacy intern. President Draugalis asked Mr. Gates if Walgreens had checked with the Board to determine if Mr. Boysen possessed an intern license. Mr. Gates was filling in for Mr. Boysen's supervisor and stated that his supervisor should have called the Board to verify his license. Mr. Gates reported that Mr. Boysen's supervisor reported that he was doing a good job and is a team player. His supervisor was confident that Mr. Boysen could perform as a pharmacist. President Draugalis asked Mr. Boysen to discuss his past work experience. Mr. Boysen stated that he worked for 20 years in California as a pharmaceutical sales representative. Mr. McAllister informed him that he had been practicing as an unlicensed intern and that previous Boards had admonished the pharmacist in charge of a facility that had utilized an unlicensed intern. President Draugalis informed all in attendance that the Pharmacist-In-Charge at Walgreens has the responsibility to check the status of an intern license and make sure that it was active before allowing the intern to practice. Mr. McAllister asked Mr. Gates to convey this message to his company. Compliance Officer Cheryl Frush noted that during an inspection at a Walgreens store on April 18, 2003 Mr. Boysen told her that his intern license was posted at another store. Ms. Frush questioned him because he was wearing a graduate intern badge and no license was posted. Mr. Boysen stated that he did not tell Ms. Frush that. Mr. Boysen then stated that he received conflicting information and that he did not know he was required to obtain an intern license. Mr. Dutcher informed Mr. Boysen that to claim ignorance of the law is not an excuse. He stated that it is the pharmacist's responsibility to know the laws. Executive Director Lloyd reminded the Board that the office staff is unable to determine if an intern license is required for reciprocity until after an official NABP application is received. The application for reciprocity was not received until May 19, 2003. **On a motion by Mr. Jones and Mr. Ketcherside**, the request for a reduction in intern hours was denied. They also requested that a letter be sent to Walgreens reminding them that verification of intern license must occur before employment. It was also proposed to address the topic in the next newsletter that the pharmacist-in-charge of a pharmacy is responsible for verifying current licenses.
- #4 **Lawrence Gingway** appeared on his own behalf requesting permission to pursue licensure by reciprocating his pharmacist license from the state of Iowa. President Draugalis began the discussion by asking Mr. Gingway if he could produce an active pharmacist license from Iowa. Mr. Gingway replied that all he had to do was pay \$550.00 to reactivate it. President Draugalis informed Mr. Gingway that unless and until he could produce an active pharmacist license from Iowa he was wasting his and the Board's time.

President Draugalis declared a brief recess and reconvened the meeting at 10:12 A.M.

AGENDA ITEM IV - REPORTS

Executive Director's Report

Executive Director Lloyd presented the Board Members with the most recent financial report and discussed various aspects of the report. He stated that the Board was in a sound financial position. He also commented on the "dynamic" nature of state government, which makes it difficult to plan ahead or set goals. He thanked the Board and Arizona pharmacist practitioners for their confidence in him and for their support over the years.

Deputy Director's Report

Deputy Director Wand called the Board's attention to the April Compliance Officer Activity Report in the meeting book. Mr. Wand distributed the copies of the May Compliance Officer Activity Report. He stated that the inspections are ahead of last year except for the non-prescription outlets, which had two inspectors last year and only one this year. Mr. Wand announced that pharmacist Richard Cieslinski has accepted a position as a Compliance Officer to replace Cheryl Frush.

AGENDA ITEM V - Transfer of Prescription Information (Rx was not filled by transferor)

President Draugalis indicated that at a recent call to the public at a previous Board meeting this topic was presented to the Board by a pharmacist who was concerned about who would be held responsible in the event of an error in transcription for prescription information that was transferred when the transferring pharmacy had not actually filled the prescription. President Draugalis stated Arizona allows the transfer of original and refill prescriptions. Discussion revolved around how the original pharmacy should record the prescription information if they do not dispense the medication and the prescription information is subsequently transferred to a second pharmacy. After much discussion, it was determined that the original pharmacy should enter the prescription into the computer system, assign a number to the prescription, and then transfer the information to the other pharmacy for dispensing. If the prescription was faxed to the pharmacy, it should also be faxed to the second or dispensing pharmacy if possible. The Board members requested that a policy statement be drafted for approval. The policy will require a pharmacy that transfers new prescription information received by the pharmacy but did not actually fill the prescription to enter the prescription information into their database and assign a prescription number before transferring the information.

AGENDA ITEM VI - PROPOSED RULES

Compliance Officer/Rules Writer, Dean Wright began by reviewing the technician rules. He stated that he has added a new section which included a treatment program for impaired technicians. Various suggestions for changes were made by Board members and Mr. Wright agreed to make the changes. President Draugalis stated that a subcommittee was formed to review questions submitted by the Arizona Retailers Association and would respond back to the association within 2 weeks. The subcommittee members included the following: Mr. Jones, Mr. Wand, Mr. Draugalis, and Ms. McCoy.

Mr. Wright reviewed the compounding and limited service sterile pharmaceuticals rules. Mr. Wright was asked to change two labeling requirements in the rule. He was asked to change the wording from "not for resale" to "not for re-dispensing." The second change was from "for office use only" to "for administration only". He stated that he will make the changes after approval from the task force members and have the rules ready for review again at the August Board meeting.

Mr. Wright stated the he will make necessary changes to sections R4-23-110, 402, 408, and 609. He stated that he will prepare a notice of proposed rules.

Mr. Wright discussed the Five Year Rules Review. He explained that he has received approval to reschedule 18 sections since these sections have been amended in the last 2 years. On motion by Mr Jones and Mr. Ketcherside, the five year rule review will be sent to GRRC.

President Draugalis asked Mr. Wright if changes could be made to sections R4-23-605 and R4-23-607 while the docket was open. These sections involve requirements for resident and non-resident wholesaler permits. President Draugalis stated that Executive Director Lloyd suggested that wholesale applicants should be required to take a basic test and pass the exam prior to distribution of product. Mr. Wright stated that while the document was open these changes could be made.

President Draugalis declared a lunch break and reconvened the meeting at 1:00 p.m.

AGENDA ITEM VII - CONSUMER COMPLAINT REVIEW

The Consumer Complaint Review Committee met prior to the Board meeting to review 20 consumer complaints in preparation for making recommendations to the Board for final resolution. Members McCoy and Drake served as the review committee. Ms. McCoy provided a summary of each complaint and provided the committee's recommendation to the Board. Board Members were encouraged to ask questions. Following the presentations and discussion the Board voted on each complaint individually. The following summary represents the final decision of the Board in each complaint; these decisions were memorialized **on motion by Mr. Ketcherside and Mr. Jones** and unanimously approved by the Board.

Complaint # 2635 - Letter to RPh advising that additional training in sterile compounding and chemotherapy is advised, a letter to the former acting director advising him to work with the hospital Human Resources department on personnel matters, and a letter to Risk Management of the hospital listing the errors discovered.

Complaint # 2639 - Letter to Complainant - advising that an application to the Board to provide Drug Therapy Management would be required in the circumstances described.

Complaint # 2643 - No Further Action

Complaint # 2644 - Letter of Warning concerning lack of patient counseling

Complaint # 2645 - Appear before the Board for RPh -dispensing error. Hearing for second RPh that provided inadequate counseling. Letter to MD concerning poor handwriting.

Complaint # 2647 - Complimentary Letter to RPh for filing suspicious report for pseudoephedrine sales

Complaint # 2648 - Complimentary Letter to RPh for solving and correcting the prescription problem

Complaint # 2649 - Letter of Warning- Review of processes when reprinting labels

Complaint # 2650 - Appear before the Board - RPh and technician responsible for data entry

Complaint # 2651 - Appear before the Board

Complaint # 2652 - No Further Action

Complaint # 2653 - Letter of Explanation to RPh - Refusal to sell is not law but professional judgment

Complaint # 2657 - No Further Action

Complaint # 2658 - Letter to RPh. Letter to Supervisor concerning technician training.

Complaint # 2659 - No Further Action

Complaint # 2661 - Letter to Director concerning complaint call routing to correct facility

Complaint # 2662 - No Further Action

Complaint # 2663 - Withdrawn by Complainant

Complaint #2664 - Letter of Warning

New Mexico Complaint - No Further Action

AGENDA ITEM VIII - CONFERENCES

COMPLAINT # 2628

President Draugalis called Pharmacist Roger Brubaker and supervisor Matt Cook to inform the Board of the role they played and recollection of this consumer complaint. Mr. Dutcher did not participate in this conference due to a conflict of interest. Compliance Officer Cheryl Frush presented a summary of her investigation. President Draugalis asked Mr. Brubaker to provide a recollection of the events. Mr. Brubaker stated that he received a transferred prescription from another pharmacist. The prescription was written for a strength of medication that did not exist. Mr. Brubaker was told by the other pharmacist that the patient said the doctor increased the dose and the patient knew how to cut the tablets to make the increased dose. Mr. Brubaker adjusted the prescription to reflect the change in strength and dispensed the medication. He stated that on a Friday night he tried to accommodate the patient by filling her prescription, in what he believed was to be the proper dosage.

In concluding this conference, President Draugalis, suggested that Mr. Brubaker verify all information with the physician prior to dispensing if there are any questions concerning the prescription.

COMPLAINT # 2632-2633

Pharmacist Steven Shapiro and supervisor Rick Gates were present relevant to a consumer complaint. Compliance Officer Larry Dick was requested to describe the findings of his investigation. President Draugalis asked Mr. Shapiro to discuss the events leading to this discussion. Mr. Shapiro apologized for the two errors. He felt that several factors impacted on this error - inadequate staffing and too much prescription volume. Mr. Shapiro stated that he is across the street from a very busy hospital with lots of prescriptions generated from the emergency room. He stated that he had inadequate help in the mornings and evenings. Mr. Shapiro stated that he previously floated before being placed in this store. He stated that prior to this placement that he had never worked alone at any other store while floating. Mr. Shapiro stated that he was under a lot of stress and did not get a lunch break. Mr. Shapiro was asked why no incidence reports were filed. He stated that he was not on duty when the incorrect medications were returned and the pharmacist that corrected the mistake was responsible for filing the incident report. Board Members made several suggestions. Mr. Draugalis told Mr. Shapiro to concentrate on the strength, since both errors involved the strength of the medication He was told to slow down and take his time. The Board Members made several suggestions to Rick Gates, the supervisor. The Board suggested that Mr. Gates review the support help in the store and provide additional staffing when necessary. The Board suggested that Mr. Gates review with the pharmacists the policy on filing an incident report. He stated that the procedure has been discussed with the pharmacy manager. The Board suggested that the Board's Substantive Policy on lunch breaks be included in a future newsletter.

COMPLAINT # 2634

President Draugalis called pharmacist Kaushik Patel and supervisor Rick Gates forward to address the Board about the consumer complaint. Compliance Officer Larry Dick was present to report the findings of his investigation. President Draugalis asked Mr. Patel to discuss the events leading to this discussion. Mr. Patel apologized for filling the same prescription incorrectly twice. He stated that the first time he knew that he had filled the prescriptions incorrectly was when he was informed of the complaint by the Compliance Officer. Mr. Patel said upon finding out about the errors, he refunded the patient's money and called the patient to apologize. He stated that at this time he filed an incident report because it was not completed when the error was originally corrected. Mr. Patel stated that

he has completed CE on medication errors. President Draugalis encouraged Mr. Patel to look inward in an attempt to correct the same error. President Draugalis discussed the filing of incident reports with Mr. Gates. Mr. Gates stated that the incident report is an online form that is sent to the legal department and the supervisor. The supervisor will not be notified an error occurred unless the report is filed. President Draugalis suggested that Mr. Gates should suggest to his corporate office that disciplinary action should be taken against the pharmacist if the incident report is not filed.

COMPLAINT # 2636

President Draugalis called Pharmacist Mita Bhakta, Pharmacist Page Margetak, and supervisor Melissa Christensen to address the Board relevant to their role and recollection in this consumer complaint. Pharmacy Operations Manager Jason Reiser also was present to answer questions. Compliance Officer Cheryl Frush reported the findings of her investigation. President Draugalis asked the pharmacists to describe the process for the 4-point check and verification process. Ms. Margetak started by explaining the 4-point check. Ms. Margetak stated at this stage the pharmacist checks the patient information, drug name and strength, directions, and physician information. If the information is correct, she processes the prescription in the system and an interaction message (DUR) will appear. In this case, the patient was allergic to penicillin. Ms. Margetak placed the prescription on hold after overriding the DUR message. The doctor was not called because the policy at this pharmacy was to question the patient during counseling to determine if the condition was a true allergy or if the patient was confusing a side effect with an allergic reaction. Ms. Margetak stated the patient did not return to the pharmacy when paged and the prescription was filled. President Draugalis asked Ms. Bhakta to explain the visual check procedure and if she was able to see the DUR message. Ms. Bhakta stated the verification screen that she uses to identify the medication does not show any DUR messages. Ms. Bhakta stated that the 4-point check pharmacist may enter a manual message in the order information field and then she would see any relevant notes about the prescription or the patient. Ms. Bhakta stated that no message was entered concerning the patient's allergy, so she did not know the patient was allergic to penicillin. President Draugalis asked what steps were taken to correct these problems. Ms. Christensen stated that Wal-Mart has instituted a new policy. All DUR messages that indicate a patient is allergic to a specific medication must be handled during the 4-point check. A phone call to the physician must be made to alert the physician to the fact that a prescription has been written for his patient and the patient is allergic to that medication. Until clarification is received, the prescription is placed in a troubleshooting queue. Mr. Reiser addressed the Board concerning the changes made to the system. Mr. Reiser stated that a trouble shoot queue has been developed versus the hold queue that was previously used. If the patient is allergic to the medication and the patient does not want the prescription filled at this time, the pharmacist will contact the physician and accept the DUR message and the prescription is placed in the hold queue. The DUR message will not appear again because the company felt that many times the pharmacist bypasses DUR messages because there are so many different messages. President Draugalis suggested to Mr. Reiser that the company review this policy. President Draugalis suggested that the DUR message should appear at the time of dispensing when the prescription is taken off hold status. President Draugalis recommended sending a letter to the physician notifying him that he prescribed a medication for a patient who informed him that she was allergic to penicillin prior to his issuing of the penicillin prescription.

President Draugalis called a brief recess and reconvened the meeting at 2:45 p.m.

AGENDA ITEM IX - Proposal to reduce postage costs on ASBP newsletters

President Draugalis invited Deputy Director Wand to address this agenda item. Mr. Wand stated that as a result of an Executive Order from the Governor to reduce agency overhead and provide agency information online whenever possible, he had researched ways to reduce costs. One way would be to discontinue mailing ASBP newsletters to individual pharmacists and instead mail a copy to each pharmacy. Approximately 6,500 letters are currently mailed to pharmacists each quarter. By mailing the letters to each pharmacy, the Board would only mail approximately 1,500 letters. By reducing the number of letters being mailed each quarter from 6,500 letters to 1,500 letters a savings of \$1815.85 quarterly or \$7,263.40 annually would be realized. The newsletter would still be available on the Board's website. There were multiple comments and suggestions made by audience members. Suggestions from the audience included the following: E-mail broadcast, use of individual e-mails, maintain a mailing list for individuals without computer access, and use of corporate e-mail. President Draugalis stated that he thought this was

an excellent way to decrease costs. Mr. McAllister felt that the newsletter provided a way to inform pharmacists of compliance issues. President Draugalis suggested that the Board review the various options suggested and revisit the issue at the August Board meeting.

AGENDA ITEM X - Review of Express Scripts Automation Waiver Data

ESI Mail Services was represented by Pharmacy Director Sheri Zapp. Roger Morris was present as legal counsel for ESI Mail Services.

Ms. Zapp began the presentation by providing background information. On January 15, 2003, ESI was granted a variance at the Board meeting to allow a pharmacist's final check to occur when the pharmacist verifies that the proper medication has been selected and placed into the correct high volume filler (HVF) machine dispensing canister. ESI agreed to manually check the first 100,000 prescriptions filled by the HVF, continue to manually check an on-going basis a sample of 5% of the filled prescriptions and to report back to the Board after six months. Ms. Zapp stated that manual verification of the first 100,000 HVF prescriptions filled between March 15 and April 8, 2003 confirmed a 100% accuracy rate. In May, manual verification detected three human errors. The first error occurred when 2 canisters were pulled out by two different technicians. The medications were mixed up in the canisters. Ms. Zapp reported that 20% of the prescriptions were shipped out to patients. The patients were called to inform them of the potential problem. The other two errors occurred when medications were returned to the canister incorrectly. Ms. Zapp added that procedural changes have been instituted to minimize the potential for human error. Ms. Zapp stated that any work to be completed on a canister that is expected to last longer than 10 minutes will result in a disabling of the canister. Once the work is completed, a pharmacist will be required to enable the canister and the first ten vials will be manually inspected. Ms. Zapp stated that no return to stock medications will be added to the canisters because this was the reason for the third human error. The board members were impressed with the candor and explanations offered. Mr. McAllister stated that he felt that no further visits were necessary and that an annual visit by the compliance officer would be sufficient. The rest of the Board agreed.

AGENDA ITEM XI - Review of Waiver for Expiration Date on Regranex- R4-23-605 (D)(4)

President Draugalis opened discussion concerning a request for extension of the waiver granted to Ortho McNeil, Johnson & Johnson, Inc. for the product Regranex. The current section R4- 23-605 (F) (5b) states the following:

- b. Any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical, that has less than 120 days remaining on the expiration date, is deteriorated, damaged, or does not comply with federal law, is moved to a quarantine area and not sold or distributed;

Regranex is a product that has very short expiration dating, usually less than 120 days. **On motion, Mr. McAllister and Mr. Jones**, the Board voted unanimously to grant a permanent waiver to Ortho McNeil, Johnson & Johnson Inc. for their product, Regranex. The waiver will remain permanent barring any significant product changes.

AGENDA ITEM XII - Consent Agreements

President Draugalis called on Deputy Director Wand to provide a report on the consent and hearing calendar. Mr. Wand indicated that all matters on the agenda have been resolved as Consent Agreements or stipulated orders that have been reviewed and approved by the Attorney General's office.

President Draugalis asked for the Board's approval to consolidate approval of the consent agreements with a single motion. There was no opposition to the proposal.

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

Mansur Oloumi	03-0003-PHR
Alan Clendenin	03-0004-PHR
Kermit Thompson	03-0005-PHR
Jeff Szubinski	03-0007-PHR

AGENDA ITEM XIII- Approval of Inter-Agency Service Agreement - Attorney Assignment

President Draugalis called upon Deputy Director Wand to review the proposed intra-agency service contract received from the Attorney Generals Office. Mr. Wand summarized the agreement which allows the Board to pay for and receive the services of a half-time assistant attorney general. The attorney will be shared with another state agency. Mr. Wand stated that he had contacted several other Boards with experience with the contracts and as a result of those conversations he advised the Board to amend the proposed contract by adding a clause allowing the Board to utilize a portion of the funds paid to the Attorney General's office for educational conferences and travel. The Board would approve the conferences and/or travel. **On motion by Mr. Jones and Ms. McCoy**, the Board unanimously agreed to approve the inter-agency service agreement with the suggested addendum.

AGENDA ITEM XIV - Potassium Iodide Distribution in the event of Bio-terrorism Event

President Draugalis invited Mr. McAllister to address this agenda item. Mr. McAllister expressed concern that there are sources that are selling over-the-counter Potassium Iodide (KI) preparations without instructions for use in case of nuclear attacks. Mr. McAllister stated that it was possible for under usage or over usage of the product to occur without adequate instructions. Deputy Director Wand offered to contact the Department of Health Services and offered to prepare a news release for the local newspapers to protect the public by providing information on the proper dosing.

AGENDA ITEM XV - EXECUTIVE SESSION

President Draugalis recessed the open meeting and reconvened in Executive Session for the purpose of discussing personnel matters...Executive Director and Deputy Director compensation. **On motion by Mr. Jones and Mr. Ketcherside**, the executive session concluded at 3:50 p.m. and the public meeting reconvened.

AGENDA ITEM XVI - CALL TO THE PUBLIC

President Draugalis announced that interested parties have the opportunity at this time to address issues of concern to the Board, however the Board may not discuss or resolve any such issues because the issues were not posted on the meeting agenda. Comments included: posting of frequently asked questions on the website would decrease the number of calls to the Board Office.

There being no further business to come before the board, **on motion by Mr. Jones and Mr. Ketcherside**, the board unanimously agreed to adjourn at 4:20 p.m.