Call To Order/Roll Call:

Woodrow Storey, Board Chairman called the meeting to order at approximately 9:05 a.m. and a quorum was determined to be present.

Members Present:

Tom Ortega, R.Ph.
Rudy Nolasco, R.Ph.
Brenda Padilla, R.Ph.
Woodrow Storey, R.Ph.
Howard Shaver
Danny Cross, R.Ph.
Buffie Saavedra
Amy Buesing, R.Ph.

Staff Present:

Jerry Montoya, R.Ph., Executive Director/Chief Inspector
Bill Harvey, R.Ph., State Drug Inspector
Bill Weast, R.Ph., State Drug Inspector
Mike Lyons, R.Ph., State Drug Inspector
Larry Loring, R.Ph., State Drug Inspector
Janelle Sanchez, Administrative Secretary
Cynthia McCormick, Administrator
Sarah Trujillo, Licensing Manager
Rocio Cruz-Tapia, Licensing Clerk

Approval of the Agenda:

The Chairman stated that a new agenda has been passed out to all members and asked if there were any changes or additions to the current agenda. There were none.

Motion:

A motion was made by Mr. Shaver, seconded by Ms. Buesing to approve the agenda as presented. The Board voted unanimously to pass the motion.

Approval of the Minutes:

Ms. Buesing stated that she has a few corrections to the minutes. She stated that on page 3, line 31 the word from was misspelled, on page 7, line 24, there is no second, page 9, line 6, the word from is misspelled.

Motion:

A motion was made by Ms. Buesing, seconded by Mr. Shaver to approve the minutes with the changes. The Board voted unanimously to pass the motion.

Chemotherapy Preparation Committee:

Mr. Krieger and Ms. Dodd appeared before the Board to give an update on the proposed regulations changes that the committee would like to see. Brief discussion was held regarding this issue.

Motion:

A motion was made by Mr. Ortega, seconded by Mr. Nolasco to notice 16.19.6.11 and 16.19.4.16 for hearing in November. The Board voted unanimously to pass the motion.
Drive Up Windows - Retail Pharmacies - Jason Reiser, Walmart Pharmacies:

Mr. Reiser appeared before the Board to explain the new drive up pharmacies and to ask the Board for approval of these drive ups, if WalMart does decide to use them in New Mexico. Brief discussion was held regarding this issue.

Mr. Storey stated that at this point, the Board does approve this form of practicing pharmacy, but of course, when the time comes, WalMart will have to apply and be inspected.

Luz Lavezo - 16.19.6.11 NMAC:

Ms. Lavezo appeared before the Board to update them on a committee report from 2003. She stated that at that time the Board reviewed her proposed changes and approved them for a hearing, but with everything that happened with the change over in Board members the hearing was never held. The proposed change is as follows:

Patients are contacted at a frequency appropriate to the complexity of the patient's health problems and drug therapy as documented on patient specific plan of care and with each new prescription, change in therapy, or condition.

To define care of plan: The pharmacist in collaboration with the patient or caregiver and other health care providers, is responsible for developing an appropriate and individualized care plan for each patient to include the following:

A description of actual or potential drug therapy problems and their proposed solutions.

A description of desired outcomes of drug therapy provided

A proposal for patient education and counseling

A plan specifying proactive objective and subjective monitoring (e.g. vital signs, laboratory test, physical findings, patient response, toxicity, adverse reactions, and non compliance) and the frequency with which monitoring is to occur.
Change to: refrigeration capacity for proper storage or prepared parenterals at 2°C to 8°C after preparation and until prescriptions are picked up by or delivered to the patient or their agent;

At this time she would like to request that the Board vote again and have the hearing on her proposed regulation changes. Further brief discussion was held regarding this issue.

**Motion:**

A motion was made by Ms. Buesing, seconded by Mr. Shaver to notice 16.19.6.11, which was previously noticed, for hearing at the November meeting to include Ms. Lavezo's language. The Board voted unanimously to pass the motion.

Ms. Buesing stated that when the agenda is set for the November meeting, the regulations need to be scheduled with a lot of time so that everyone will have a chance to speak.

**NABP Meeting Discussion:**

Mr. Storey stated that this meeting will be held in Las Vegas, and the dates are the 27-30 of October. He also stated that RLD has a 2 Board member rule for attending meetings, but he would like to go through the exceptions process to allow as many Board members as would like to go. All members stated that they would like to attend except for Mr. Cross and Mr. Nolasco.

**Recess for Lunch:**

**Reconvene:**

**Regulation Hearings:**

Mr. Storey opened the regulation hearings, 16.19.24 NMAC and 16.19.4 NMAC at approximately 1:07 p.m. Mr. Storey also presented the Notice to the Public
as exhibit 1. Mr. Cross read the proposed changes to 16.19.4.16 NMAC. The
proposed changes are as follows:

16.19.4.16 RESPONSIBILITIES OF PHARMACIST AND
PHARMACIST INTERN:

A. The following responsibilities require the use of professional
judgment and shall therefore only be performed by a pharmacist or pharmacist
intern:

   (1) Receipt of all new verbal prescription orders and reduction to
writing;
   (2) Initial identification, evaluation and interpretation of the
prescription order and any necessary clarification prior to dispensing;
   (3) Professional consultation with a patient or his agent regarding
a prescription;
   (4) Evaluation of available clinical data in patient medication
record system.
   (5) Oral communication to the patient or patient's agent of
information, as defined in this section under patient counseling, in order to
improve therapy by ensuring proper use of drugs and devices;
   (6) Professional consultation with the prescriber, the prescriber's
agent, or any other health care professional or authorized agent regarding a
patient and any medical information pertaining to the prescription; and
   (7) Preparation of prescription drug orders for cancer
chemotherapy solutions.

B. ONLY A PHARMACIST SHALL PERFORM THE
FOLLOWING DUTIES:

   (1) Final check on all aspects of the completed prescription, and
assumption of the responsibility for the filled prescription, including, but not
limited to, appropriateness of dose, accuracy of drug, strength, labeling,
verification of ingredients and proper container.
   (2) Evaluation of pharmaceuticals for formulary selection within
the facility.
   (3) Supervision of all supportive personnel activities including
preparation, mixing, assembling, packaging, labeling and storage of
medications.
   (4) Ensure that supportive personnel have been properly trained
for the duties they may perform.
   (5) Any verbal communication with a patient or patient's
representative regarding changing drug therapy or performing therapeutic
interchanges, not substitution of generic equivalents, but drugs with similar
effects in specific therapeutic categories.
   (6) Any other duty required of a pharmacist by any federal or
state law.

C. PATIENT RECORDS:

   (1) A reasonable effort must be made to obtain, record and
maintain at least the following information:
(a) name, address, telephone number, date of birth (or age) and gender of the patient;
(b) individual medical history, if significant, including disease state or states, known allergies and drug reactions and a comprehensive list of medications and relevant devices; and
(c) pharmacists comments relevant to the individuals drug therapy.

Such information contained in the patient record should be considered by the pharmacist or pharmacist intern in the exercise of their professional judgement concerning both the offer to counsel and the content of counseling.

Ms. Buesing stated that she would like to change the wording to: "Any verbal communication with a patient or patients representative regarding a change in drug therapy or performing therapeutic interchanges (i.e. drugs with similar effects in specific therapeutic categories). This does not apply to substitution of generic equivalents.

Motion:

A motion was made by Mr. Cross, seconded by Mr. Ortega to accept the proposed amendment to 16.19.4.16 NMAC as amended. The Board voted unanimously to pass the motion.

The Chairman opened the second portion of the hearings, 16.19.24 NMAC. Mr. Cross read the proposed changes aloud to the Board and the audience. Those changes are as follows:

B. "In Use" means when dangerous drugs and controlled substances are removed from stored inventory of the principle place of business and placed in jump kits or mobile units for emergency use.

C. "Jump Kit" means portable carrying devices that contain emergency medical supplies and drugs.

D. "Location" refers to any sites which are part of the EMS's operations, including its headquarters, stations, vehicle bays, docks, or hangers. This can include the mobile units or the practitioner's jump kits.

E. "Medical Director" means a physician who is responsible for all aspects of patient care of an EMS as defined in NMSA 24 10 B(3).
"Mobile Unit" means to a vehicle such as an ambulance, rescue or fire truck; boat or ship; or aircraft.

"Practitioner" refers to a licensee under the laws and regulations who is an employee or contractee of an EMS and is authorized to assess or diagnose patients, and to dispense drugs for emergency treatment. They may include physicians, physician's assistants, nurses, and/or emergency medical technicians/paramedics.

"Principle Place of Business" refers to any sites which are part of the EMS's operations, including its headquarters, stations, vehicle bays, docks, or hangars where dangerous drugs and/or controlled substances are stored, but does not include dangerous drugs or controlled substances "in use".


Motion:

A motion was made by Ms. Buesing, seconded by Mr. Cross to approve the regulation 16.19.24 NMAC as amended by the Board. The Board voted unanimously to approve the motion.

The Chairman closed the regulation hearings.

Executive Director's Report:

Case Presentations:

Motion:

A motion was made by Ms. Buesing, seconded by Mr. Nolasco to go into executive session to discuss case presentations. The Board voted unanimously to pass the motion.

Motion:
A motion was made by Ms. Buesing, seconded by Mr. Ortega to go back into open session and all that was discussed was case presentations. The Board voted unanimously to pass the motion.

**Motion:**


Mr. Montoya presented his resignation letter to the Board. Mr. Cross stated that Mr. Montoya has been a real asset to not only the Board but to the citizens of the State of New Mexico.

Mr. Montoya presented correspondence received from Christina Gonzales concerning emergency contraception. Discussion was held regarding a pharmacist asking a patient why they are taking a certain medication. Mr. Cross stated that it is within the pharmacist's professional judgment to decide if that question needs to be asked of the patient. Mr. Cross stated that he would like a letter to go out to Ms. Gonzales informing her that the Board of Pharmacy is here to protect the welfare of the citizens of the State of New Mexico and the policy is not to intervene in issues such as this and each individual has the right to decide who they want to provide services to and the only other option that they have is to provide the patient with information about other locations that will provide such a service.

**Motion:**

A motion was made by Mr. Cross, seconded by Mr. Ortega to send a letter to Ms. Gonzales explaining to her the policy of the Board and the options that the pharmacist has. The Board voted unanimously to pass the motion.
Application Approval:

Clinic Applications:

Mr. Cross stated that there are 9 applications in this category and all are in order.

Motion:

A motion was made by Mr. Cross, seconded by Mr. Nolasco to approve all 9 applications in this category as presented. The Board voted unanimously to approve the motion.

Limited Controlled Substance Applications:

Mr. Cross stated that there is 1 application in this category and it is in order.

Motion:

A motion was made by Mr. Cross, seconded by Mr. Shaver to approve the one application in this category as presented. The Board voted unanimously to approve and pass the motion.

Emergency Medical Service Applications:

Mr. Cross stated that there are 5 applications in this category and all are in order.

Motion:

A motion was made by Mr. Cross, seconded by Mr. Nolasco to approve all 5 applications in this category as presented. The Board voted unanimously to pass the motion.
Custodial Home Applications:

Mr. Cross stated that there are 11 applications in this category. He stated that there is not a policy and procedure manual for #2 and he would like to see this application tabled until one is received.

Motion:

A motion was made by Mr. Cross, seconded by Mr. Ortega to table application #2 until a policy and procedure manual has been received. The board voted unanimously to pass the motion.

Motion:

A motion was made by Mr. Cross, seconded by Mr. Shaver to approve all custodial applications as presented except for #2. The Board voted unanimously to pass the motion.

Pharmacy Applications:

Mr. Cross stated that there are 6 applications in this category except for #3, which will be discussed this afternoon.

Motion:

A motion was made by Mr. Cross, seconded by Mr. Ortega to approve all applications in this category as presented, except for #3. The Board voted unanimously to pass the motion. Mr. Nolasco abstained from the vote.

Hospital Applications:

Mr. Cross stated that there are 2 applications in this category and both of them have questions. There will be individuals here this afternoon to discuss these applications.
Non-Resident Pharmacy Applications:

Mr. Cross stated that there are 8 applications in this category and all are in order.

Motion:

A motion was made by Mr. Cross, seconded by Mr. Nolasco to approve all 8 applications in this category as presented. The Board voted unanimously to approve the motion.

Wholesale/Broker Applications:

Mr. Cross stated that there are 3 applications in this category and all are in order.

Motion:

A motion was made by Mr. Cross, seconded by Ms. Buesing to approve all 3 applications in this category as presented. The Board voted to pass the motion unanimously.

Pharmacist Clinician Applications:

Mr. Cross stated that the clinician committee has yet to approve these applications. All 3 applications have the same protocols. Further brief discussion was held regarding this issue.

Motion:

A motion was made by Mr. Ortega, seconded by Ms. Padilla to table these applications until the Board receives clarification on the applications. The vote was Mr. Ortega, aye, Ms. Saavedra, aye, Ms. Padilla, aye, Mr. Nolasco, aye, Ms. Buesing, aye, Mr. Shaver, aye, and Mr. Cross, nay. The motion passed.
Motion:

A motion was made by Mr. Cross, seconded by Mr. Shaver to attach the application list to the minutes. The Board voted unanimously to pass the motion.

Mr. Montoya presented correspondence received from Miners Colfax regarding a variance request for space requirements. They received an extension once before, but due to funding issues, the remodel has not been completed yet.

Motion:

A motion was made by Mr. Ortega, seconded by Ms. Buesing to grant a one-year extension to Miners Colfax Medical Center. The Board voted unanimously to pass the motion.

James Baca, Assistant Administrator for the Peak Hospital appeared before the Board. Mr. Harvey stated that the hospital failed to have the correct prescriptions, but at this time they have corrected the issues that the Inspectors noted. Further brief discussion was held regarding the hospital application.

Motion:

A motion was made by Mr. Cross, seconded by Mr. Nolasco to take custodial home application #2, hospital application #2 and pharmacy application #3 off of the table and approve pending completion of the policy and procedure manual. The Board voted unanimously to pass the motion.

Ms. Leilanie Miller, pharmacy technician appeared before the Board to appeal the Board's decision not to renew her license until she has passed the PTCB examination and become nationally certified. Mr. Storey turned the Chair over to Ms. Buesing. Ms. Miller stated that she has had a lot of tragedy happen in her life and she has not been able to take the past few examinations. Further brief discussion was held regarding this issue. Ms. Buesing stated that after 3
years, Ms. Miller should have been able to have taken the exam and at this time.

Motion:

A motion was made by Mr. Cross, seconded by Ms. Saaverdra to deny the request of Ms. Miller to work as a technician until she passes the PTCB exam, but she may work as a clerk until the exam is passed. The Board voted unanimously to pass the motion.

Ms. Buesing turned the Chair back over to Mr. Storey.

Mr. Montoya presented correspondence received from John Ellis regarding reinstatement of his license. He stated that Mr. Ellis went inactive in 1966. Mr. Storey stated that Mr. Ellis would have to provide the Board with proof of all of his 360 CE's since he was inactive, pay all back fees, take and pass the MPJE, and have proof of internship to equal the required 80 hours per year since 1980.

Louis Simi - Pharm D Candidate appeared before the Board to request permission to do 2 of his experiential rotations in Canada. Michelle Disco appeared with Mr. Simi and stated that the program is lined out really well and she thinks that it would be a good opportunity for Mr. Simi.

Motion:

A motion was made by Mr. Cross, seconded by Mr. Ortega to approve the request of Mr. Simi for the 2 experiential rotations in Canada. The Board voted unanimously to pass the motion.

Berna Tuncel Jove Colon Pharm D appeared before the Board to request that her intern hours from Turkey be allowed to be used here for required internship. Brief discussion was held regarding this issue.

Motion:
A motion was made by Mr. Cross, seconded by Ms. Saavedra to approve the 550 hours from Turkey to be applied to Ms. Tuncel's internship here. The Board voted unanimously to pass the motion.

Motion:

A motion was made by Mr. Ortega, seconded by Ms. Buesing to go into executive session to discuss personnel issues. The Board voted unanimously to pass the motion.

Motion:

A motion was made by Mr. Cross, seconded by Mr. Shaver to go back into open session and all that was discussed was personnel issue. The Board voted unanimously to pass the motion.

Motion:

A motion was made by Mr. Ortega, seconded by Ms. Buesing to appoint William Harvey as the Acting Executive Director. The Board voted unanimously to pass the motion.

RECESS:

RECONVENE:

Roll Call/Call to Order:

The Chairman reconvened the meeting at approximately 9:10 a.m.

Monitored Treatment Program Report:
Dr. Swaboda of the Monitored Treatment Program appeared before the Board and gave a brief report of all individuals ordered by the Board to enter the program. Brief discussion was held regarding the report.

Disciplinary Hearing – Amy Reaume, Pharmacy Technician:

The hearing was continued until the November 2004 Board meeting.

Mr. Montoya introduced Francine Chavez, the new prosecuting attorney for the Board from the Attorney General’s Office.

Discussion was held regarding the settlement agreements that the prosecutor presents to the Board. The Chairman stated that Mr. Ortega has been appointed to the complaint committee and he will be involved in the process of preparing the settlements with the prosecutor, and in turn will recuse himself from any deliberations of the cases that he works on.

Mr. Montoya asked that all staff be brought in to the meeting. Once all staff arrived, The Chairman stated that Mr. Harvey has been appointed Acting Executive Director of the Board of Pharmacy effective immediately.

Discussion was held regarding the meeting schedule for 2005 and the length of time set aside for hearing that really never happen. The Chairman stated that the meeting schedule for next year should be ready for approval at the November meeting, but this next schedule will be shorter and the Board will only meet 5 times instead of 6. Ms. Frank stated that none of the other Boards that she works for meet as often as this Board or for as long, most meetings are for one day only. Ms. Buesing stated that the Board should have the Executive Director’s report and the cases first thing on Monday, and any other things where individuals have to appear should be set right after those items, especially the applications.

Legislative Items:
Mr. Cross stated that there are 4 different acts that have language that needs to be cleaned up. 26-3-3, E should be stricken, 61-11-1 regarding pharmacy technicians needs to have #4 added to state that a pharmacy technician is allowed to do tasks without supervision, as delegated by a pharmacist, 61-11-2 and 26-1-2 and 30-31-18 the definitions of prescription are not the same, and they need to uniform throughout. Mr. Harvey stated that he would like to clarify in the statute that licenses are renewed bi-ennially now as well as annually. Also, Sellers or Dispensers of Contact lenses needs to be added. He also stated that he would like to have "valid practitioner-patient relationship" defined in the statutes. Mr. Storey stated that this issue will be discussed further this afternoon.

Cardinal Health:

Ron Long, Senior Director of Cardinal Health appeared before the Board to discuss the $5000.00 fee for wholesalers and manufacturers. He wanted to know if it is possible for some of the licenses that he holds to be consolidated. Mr. Montoya stated that each address, physical address has to have its own license. Mr. Long stated that the 2 facilities that do not require a license will send in their old licenses to the Board.

Presbyterian Medical Services:

Bob Gale, Director of Services for PMS appeared before the Board to discuss the fee of $5000.00 for their wholesale license. He stated that PMS is a not for profit organization and the newly implement fee is not possible for PMS at this time and he would like a waiver from the Board regarding the fee, otherwise, PMS will have to stop serving New Mexico in the capacity that they have been. Mr. Montoya stated that Mr. Gale can send a letter to Patty Jennings of the NMMIP and request a waiver of the fees.

Motion:

A motion was made by Mr. Cross, seconded by Ms. Padilla to table this issue until this afternoon. The Board voted unanimously to pass the motion.
Tobacco Cessation Committee:

Dale Tinker and Denise Cuellar appeared before the Board to give an update of the progress of the Tobacco Cessation Committee and to get approval of the training program for prescribing of these products. They presented the course for certification to the Board.

Motion:

A motion was made by Mr. Cross, seconded by Mr. Ortega to approve the training course by the New Mexico Pharmaceutical Association as presented. The Board voted unanimously to approve the motion.

Recess for Lunch:

Reconvene:

Steve Mulryan, R.Ph.:

Mr. Mulryan stated that he is appearing before the Board to receive clarification from the Board regarding retention of training records for technicians. He presented proposed changes to the regulations for the Board to discuss. He also stated that he would like clarification from the Board regarding the extension period for technicians. Mr. Harvey stated that since the renewal period is now a 2-year renewal, there is no reason why the person should not have their certification. The Chairman stated that at this time the Board is going to get rid of the extensions and since the technician has 2 years to receive certification, they should have obtained that by the time their renewal period comes up. If at the time of renewal a technician does not have their certification, then their license will not be renewed until they obtain that certification.
Mr. Mulryan asked about a technician who comes to his facility certified. Mr. Cross stated that Mr. Mulryan can either retrain the technician or obtain a copy of the training records from the Board's office.

**Motion:**

A motion was made by Ms. Buesing, seconded by Ms. Saavedra to resurrect the technician committee to look at the regulations once again. Brief discussion was held regarding the motion. The vote was Mr. Shaver, aye, Ms. Buesing, aye, Mr. Cross, nay, Mr. Nolasco, nay, Ms. Padilla, aye, Ms. Saavedra, aye, Mr. Ortega, nay. The motion passed.

The Chairman stated that he would like to have someone like Doug Scribner or someone from PIMA or Apollo to be on the committee, a staff member and a Board member.

Mr. Storey turned the Chair over to Ms. Buesing.

Mr. Mulryan presented another proposal to allow a stamped signature to be considered as an original on a prescription. Further brief discussion was held regarding this issue.

**Motion:**

A motion was made by Mr. Cross, seconded by Ms. Saavedra not to take any action on this item until the next meeting when counsel can give an opinion to the Board. The Board voted unanimously to pass the motion.

Mr. Harvey stated that the Board will not have the precursor regulation hearing today, and that he would like the Board to re-notice this for hearing in November or to have a special meeting in October.

Mr. Harvey passed out a proposed change to 16.19.12 NAC regarding the $5000.00 fee that was recently put into effect. He stated that the Board really needs to do something for these companies that this would be a real hardship.
The amendment would allow a company to petition the Board for a waiver of the total amount due. Ms. Saavedra stated that this is a great amendment but she would like the Board to present this to the Governor’s office before the Board does anything about this because the repercussions could be tremendous.

**Motion:**

A motion was made by Ms. Saavedra, seconded by Ms. Padilla to notice for hearing 16.19.21 NMAC, 16.19.12 NMAC and 16.19.8.10 NMAC for a special meeting in October. The vote was Mr. Shaver, aye, Mr. Nolasco, aye, Ms. Padilla, aye, Mr. Cross, aye, Ms. Saavedra, aye, and Mr. Ortega nay because this does not necessitate a special meeting since the Board is meeting in November. The motion passed.

Mr. Harvey stated that after speaking with Ms. Frank, the members of the Board who do not live in the Albuquerque area could attend the special meeting telephonically.

**Motion:**

A motion was made by Ms. Saavedra, seconded by Mr. Cross to adjourn the meeting. The Board voted unanimously to pass the motion.