

OPEXA THERAPEUTICS, INC.

FORM 8-K (Current report filing)

Filed 10/26/05 for the Period Ending 10/20/05

Address	2635 TECHNOLOGY FOREST BLVD. THE WOODLANDS, TX 77381
Telephone	(281) 272-9331
CIK	0001069308
Symbol	OPXA
SIC Code	2834 - Pharmaceutical Preparations
Fiscal Year	12/31

UNITED STATES
SECURITIES EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of

The Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): October 20, 2005

PHARMAFRONTIERS CORP.

(Exact name of registrant as specified in its charter)

Texas	000-25513	760333165
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(State of organization)	(Commission File Number)	(IRS Employer Identification No.)
2635 N. Crescent Ridge Drive		
The Woodlands, Texas		77381
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(Address of principal executive offices)		(Zip Code)

Registrant's Telephone Number, including area code: (281) 272-9331

Former name or former address, if changed since last report: Not Applicable

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 5.02. Departure of Directors or Principal Officers;
Election of Directors; Appointment of Principal Officers.

On October 19, 2005, Robert Gow, sent a letter to the chief executive officer of the company requesting that he address certain concerns within five days. Prior to the company's ability to respond, on October 20, 2005, Mr. Gow submitted his resignation as chairman and member of the board. The board of directors has formed a special committee comprised of independent directors to address Mr. Gow's letter, and the special committee has commenced its review of the circumstances surrounding the resignation and recommended to the board for approval certain measures it believes address corporate governance concerns raised by Mr. Gow. The special committee will continue its review and make such further recommendations as it deems necessary and appropriate. Mr. Gow's letters are filed herewith as Exhibits 17.1 and 17.2 and are incorporated herein by reference. Mr. Gow had served on the board since June 2004, as well as the nominating, compensation and audit committees.

On October 25, 2005, the board of directors unanimously elected Brooks Boveroux, a director and member of the audit committee, as interim chairman, succeeding Mr. Gow.

Item 9.01. Financial Statements and Exhibit

(c) Exhibits

The following exhibits are to be filed as part of this 8-K:

EXHIBIT NO.	IDENTIFICATION OF EXHIBIT
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17.1	Letter expressing concerns of director.
17.2	Letter of resignation.
99.1	Press Release dated October 26, 2005.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

PHARMAFRONTIERS CORP.

By: /s/ David B. McWilliams

*David B. McWilliams,
Chief Executive Officer*

DATE: October 26, 2005

EXHIBIT INDEX

Exhibit No.	Description
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17.2	Letter of resignation.
99.1	Press Release dated October 26, 2005.

ROBERT H. GOW
5 Woods Edge Lane
Houston, TX 77024
(713) 278-7344

(713) 278-7355 (Fax) Yucabambu@aol.com (Email)

October 19, 2005

Mr. David McWilliams
Chief Executive Officer
PharmaFrontiers Corporation
2635 North Crescent Ridge Drive
The Woodlands, TX 77381

Dear Dave:

As the chairman and a member of the board of directors of PharmaFrontiers, I have become deeply concerned with the actions of management and certain members of the board of directors who appear to be operating under the influence of management without exercising independent judgment.

This concern arises as the result of my understanding and firm belief (as often emphasized to my business students at Rice) that both members of a corporation's board of directors and its management owe the duties of a "Fiduciary" to such corporation's shareholders. It is my further understanding that this duty, as a Fiduciary, imposes a number of obligations including the "Duty of Due Care" the "Duty of Loyalty" and the "Duty of Good Faith."

The Duty of Due Care requires the gathering of all material information reasonably available before making a decision and the duty to consider all reasonable alternatives.

The Duty of Loyalty includes the duty to promote the best interests of the corporation and its stockholders and refrain from conduct that would deprive them of benefits. This duty is violated where: (1) a director or officer promotes a transaction in which he or she possesses an economic interest; (2) a director or officer fails to disclose to other members when he is aware that a transaction involves fraud, misrepresentation, self dealing or conflicts. A corollary to this duty of Loyalty is the requirement that a director's decision must be independent. This duty is violated if the director making the decision has a personal interest in the decision, or has a relationship with someone who possesses a financial interest in the transaction and will benefit at the expense of the corporation.

The Duty of "Good Faith" is violated when the board or management acts with disregard to the best interests of the shareholders, whether out of carelessness or through manipulation by its members or management.

My concerns arise from the following observations:

1. I believe the Company has not pursued a course of financing designed to maximize the benefit of shareholders.
2. I believe the Company's management has not actively pursued a course of action designed to increase or even preserve the value of the Company's stock.
3. I believe the Company's management has failed to timely terminate investment bankers that were not acting in good faith and failed to perform as represented;
4. I believe the Company's management has not, in some cases, provided complete and accurate information to all directors, in an attempt to stall decision making or manipulate the decision of the board of directors or in some cases even mislead them;
5. I believe management has circumvented the determinations to be made by independent committees established under Sarbanes Oxley requirements, in order to achieve personal objectives and influence decision making within the Company.

These and other things worry me. I have devoted a great deal of time and effort to PharmaFrontiers trying to change them. I feel frustrated at not having been able to do so. I am concerned that some people may feel I approve of our direction and condone this behavior because I am on the Board. I do not.

Unless something happens in the next five days to make me believe things will be different, I must reconsider my position as a board member. I do not flatter myself by expecting this to cause great consternation. However, I hope that, for the sake of the Company's shareholders, you will give it due consideration.

Sincerely,

Robert H. Gow

cc: Paul Frison
Brian Rodriguez
Tony Kamin
Terry Wesner
Brooks Boveroux
Tom Pritchard

Exhibit 17.2

From: Robert H. Gow

Sent: Thursday, October 20, 2005 6:39 PM To: David McWilliams

Cc: Paul Frison, Brian Rodriguez, Tony Kamin, Terry Wesner, Brooks Boveroux, Thomas Pritchard

Subject:

Dave,

I am happy to talk with any member of the Board at any time; However, please consider this communication my formal resignation as Chairman and as a member of the Board of Directors of PharmaFrontiers, effective at this time.

Bob Gow

PharmaFrontiers Corp. Elects Interim Chairman

THE WOODLANDS, Texas--(BUSINESS WIRE)--Oct. 26,

2005--PharmaFrontiers Corp. (OTCBB:PFTR), a company involved in the development and commercialization of cell therapies, announced today that Brooks Boveroux, a director of the Company, has been unanimously elected interim chairman of the board, effective immediately. Mr. Boveroux, age 62, is replacing Robert H. Gow, who has resigned from both the board of directors and his position as chairman. "I am pleased to be taking on the role as interim chairman of PharmaFrontiers at this important time," said Mr. Boveroux. "My fellow Board members and I thank Bob for his contributions to the Company and wish him well in his future endeavors. This is an exciting time as we prepare to implement our upcoming Phase IIb trials for Tovaxin(TM) in Multiple Sclerosis. We are encouraged about the power of our technology to treat this devastating disease." Mr. Boveroux's career has spanned over two decades of senior level financial positions with public and private companies both in the research stage and those marketing approved products in the health care industry. His last position was chief financial officer of Imcor Pharmaceutical Co., a specialty pharmaceutical company, from which he retired in 2004. Mr. Boveroux has held the post of vice president of finance for several prominent biotechnology companies including Biogen, Inc., ImClone Systems, Inc. and The Liposome Company, Inc. David McWilliams, chief executive officer of PharmaFrontiers Corp., commented, "Mr. Boveroux's leadership and experience in the health care industry will be a key contributor as PharmaFrontiers advances its clinical program. I believe this is the ideal time in the Company's development to appoint a chairman who possesses a wealth of biopharmaceutical and financial skills and experience."

About PharmaFrontiers Corp.

PharmaFrontiers' strategy is to develop and commercialize cell therapies to treat several major disease areas such as cardiac and pancreatic conditions and Multiple Sclerosis. PharmaFrontiers owns patented and proprietary individualized cell therapies that are in FDA Phase I/II human dose ranging clinical trials to evaluate their safety and effectiveness in treating MS. The company also holds the exclusive worldwide license from the University of Chicago, through its prime contractor relationship with Argonne National Laboratory, for patents relating to the use of adult pluripotent stem cells derived from patients' own circulating blood.

Safe Harbor Statement

This press release contains "forward-looking statements," including statements about PharmaFrontiers' growth and future operating results, discovery and development of products, strategic alliances and intellectual property, as well as other matters that are not historical facts or information. These forward-looking statements are based on management's current assumptions and expectations and involve risks, uncertainties and other important factors, specifically including those relating to PharmaFrontiers' ability to obtain additional funding, develop its stem cell technologies, achieve its operational objectives, and obtain patent protection for its discoveries, that may cause PharmaFrontiers' actual results to be materially different from any future results expressed or implied by such forward-looking statements. PharmaFrontiers undertakes no obligation to update or revise any such forward-looking statements, whether as a result of new information, future events or otherwise.

CONTACT: PharmaFrontiers Corp., The Woodlands C. William Rouse, 281-775-0608 brouse@pharmafrontierscorp.com or Lippert/Heilshorn & Associates Investor Relations Contacts:

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