



Louisiana Board of Pharmacy

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Minutes

Regular Meeting

&

Administrative Hearing

Wednesday, May 4, 2016 at 9:00 a.m.

Thursday, May 5, 2016 at 8:30 a.m.

Location:

Louisiana Board of Pharmacy
3388 Brentwood Drive
Baton Rouge, Louisiana 70809-1700

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A regular meeting of the Louisiana Board of Pharmacy was held on Wednesday, May 4, 2016 in the Boardroom of the Board's office, located at 3388 Brentwood Drive in Baton Rouge, Louisiana. The meeting was held pursuant to public notice, each member received notice, and notice was properly posted.

1. Call to Order

Mr. Carl Aron, President, called the meeting to order at 9:05 a.m.

2. Invocation & Pledge

Mr. Aron called upon Mr. Brian Bond, and he delivered the invocation. Ms. Pamela Reed then led the group in the recitation of the Pledge of Allegiance.

3. Quorum Call

Mr. Aron called upon the Secretary, Mr. Bond, to call the roll to establish a quorum.

Members Present:

Mr. Carl W. Aron
Mr. Brian A. Bond
Mr. Clovis S. Burch
Mr. Ryan M. Dartez
Mr. Marty R. McKay (late arrival)
Ms. Chris B. Melancon
Ms. Diane G. Milano
Mr. Ronald E. Moore
Mr. Blake P. Pitre
Mr. T. Morris Rabb
Ms. Pamela G. Reed
Mr. Don L. Resweber (late arrival)
Dr. Deborah H. Simonson
Mr. Richard A. Soileau (early departure)
Mr. Rhonny K. Valentine

Members Absent:

Ms. Jacqueline L. Hall
Mr. Richard M. Indovina

Staff Present:

Mr. Malcolm J. Broussard, Executive Director (late arrival)
Mr. Carlos M. Finalet, III, General Counsel
Mr. M. Joseph Fontenot, Assistant Executive Director

Guests:

Mr. C. Bevan Callicott
Ms. Traci Perry – Dept. of Health & Hospitals – Office of Public Health
Ms. LeeAnn Eddleman – LSU Veterinary Teaching Hospital
Mr. Al Desselle – LSU Veterinary Teaching Hospital

Ms. Sonya Boss – LSU Veterinary Teaching Hospital
Mr. Colin Mitchell – LSU Veterinary Teaching Hospital
Mr. Ben J. Sims – Brookshire Grocery Co.
Mr. Kevin LaGrange – Professional Arts Pharmacy
Mr. Joseph L. Adams
Dr. Kirk Ryan, DVM – La. Veterinary Medical Association
Dr. Trish Marullo, DVM – La. Veterinary Medical Association
Dr. Patrick Thistlethwaite, DVM – La. Veterinary Medical Association
Mr. Kyle McKay – La. Independent Pharmacies Association
Ms. Mary Staples – NACDS
Mr. Michael Weber – Roadrunner Pharmacy

Mr. Bond certified 13 of the 17 members were present, constituting a quorum for the conduct of official business.

4. Call for Additional Agenda Items & Adoption of Agenda

Mr. Aron asked if there were any additional agenda items, but none were offered. With no objection, the Board adopted the posted agenda dated April 21, 2016. Mr. Aron then requested authority from the Board to reorder the agenda as necessary for the purpose of accommodating certain guests. There were no objections to that request.

5. Consideration of Minutes

Mr. Aron reminded the members they had received the draft minutes from the Regular Board Meeting on February 24, 2016 and the Administrative Hearing on February 25, 2016, both of which were held in Baton Rouge, Louisiana. With no objections, he waived the reading thereof. With no requests for amendment or any objection to their approval, Mr. Aron declared the minutes were approved as presented. Mr. Bond reminded the members to sign the Minute Book.

6. Report on Action Items

Mr. Aron called on Mr. Fontenot for the report. Mr. Fontenot reviewed the action items contained in the report which was posted in the meeting binder. There were no questions from the members.

7. Confirmation of Acts

Pursuant to Mr. Aron's declaration that the officers, committees, and executive director had attended to the business of the Board since the last meeting in accordance with policies and procedures previously approved by the Board, Mr. Moore moved,

Resolved, that the actions taken and decisions made by the Board officers, Board committees, and Executive Director in the general conduct and transactions of Board business since February 25, 2016 are approved, adopted, and ratified by the entire Board.

The motion was adopted after a unanimous vote in the affirmative.

8. Opportunity for Public Comment

Mr. Aron reminded the members and guests the Open Meetings Law requires all public bodies to provide an opportunity for public comment at all meetings and for each

agenda item upon which a vote is to be taken. He solicited general comments on non-agenda items from the guests present, but none were offered.

* *Statement of Purpose*

Mr. Aron reminded the members of the purpose and mission of the Board of Pharmacy by reciting the relevant portion of the Louisiana Pharmacy Practice Act. He urged the members to keep their mission in mind as they considered all the matters before them.

At this point, Mr. Aron informed the members and guests that Mr. Broussard was attending a meeting of the Senate Health & Welfare Committee to provide information on HB 671 relative to the re-dispensing of drugs for offenders in correctional facilities and that he would return to the Board meeting as soon as he was able to do so.

In Mr. Broussard's absence, Mr. Aron requested Mr. Fontenot to introduce two new employees who had joined the staff since the last meeting in February. Mr. Fontenot introduced Mr. Daniel Dennis, a pharmacist compliance officer for the Florida Parishes area of the state as well as Ms. Vantrinetta Williams, a licensing assistant in the credentials division of the office. Mr. Aron and the members welcomed both staff members with a round of applause.

Mr. Aron then recognized Mr. Joseph Adams in the audience, noting he was a former member of the Board, and was currently completing his term of office as Past President and Chairman of the Executive Committee of the National Association of Boards of Pharmacy (NABP).

At the request of the members, Mr. Aron requested all of the guests present identify themselves and their affiliation.

Mr. Aron indicated he would re-order the agenda to accommodate certain guests and called for Agenda Item 11.

11. Request for Approval of Policy for After-Hours Access to Pharmacy – Ms. Sonya Boss (LSU Veterinary Teaching Hospital Pharmacy)

Mr. Aron recognized Ms. Sonya Boss in the audience and invited her and her colleagues from the LSU Veterinary Teaching Hospital to the witness table to make their presentation to the members. Mr. Aron directed the members to the draft policy submitted for the Board's review by Ms. Boss, which was posted in the meeting binder. Following Ms. Boss's presentation, she responded to questions from the members. Mr. Moore then moved,

Resolved, that the Board authorize the LSU Veterinary Teaching Hospital Pharmacy operate a pilot project for after-hours access to the pharmacy by hospital staff veterinarians utilizing the relevant policy from the University of North Carolina, and further, to authorize the operation of the pilot project for one year.

The motion was adopted after a unanimous vote in the affirmative. In the one-year interim, Mr. Aron directed the Regulation Revision Committee to review the Board's rules as well as the proposed policy and develop a relevant proposal for the Board's consideration.

It was noted Mr. Broussard arrived at the meeting during the guests' presentation.

Mr. Aron then resumed the posted meeting agenda and called for the committee reports.

9. *Committee Reports*

A. *Finance Committee*

Mr. Aron called upon Mr. Pitre for the committee report. Mr. Pitre reviewed the financial report for the third quarter which ended on March 31, 2016. There were no questions from the members, and Mr. Pitre tendered the report for information only.

Finally, Mr. Pitre expressed his appreciation to the other committee members for their ongoing efforts.

B. *Application Review Committee*

Mr. Aron called upon Mr. Soileau for the committee report. Mr. Soileau reported the committee met on April 19 to consider seven referrals from the staff. Following their interviews of the applicants and subsequent deliberations, the committee authorized the issuance of one PNT registration and one PHY permit without restriction, and deferred consideration of two applications for PHY permits until a later date. The committee also recommended the denial of one PTC application; however, the due process notice requirements delayed the Board's consideration of that recommendation until the Board's next administrative hearing in August. Mr. Soileau then presented the following files to the Board for their consideration of the committee recommendations.

Quitney Raynard Toussaint (Applicant for PTC Registration) Mr. Soileau moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board authorized the issuance of the PTC registration as well as any other credential for which he might qualify, then immediately suspended the registration (and any subsequent credential) for one year and stayed the execution of the suspension, then placed the registration (and any subsequent credential) on probation for one year, effective on the date of issuance, subject to certain terms enumerated in the consent agreement.

Taquincion Diara Watson (Applicant for PTC Registration) Mr. Soileau moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board authorized the issuance of the PTC registration as well as any other credential for which she might qualify, then immediately suspended the registration (and any subsequent credential) for eighteen months and stayed the execution of the suspension, then placed the registration (and any subsequent credential) on probation for eighteen months, effective on the date of issuance, subject to certain terms enumerated in the consent agreement.

Finally, Mr. Soileau expressed his appreciation to the other members of the committee for their ongoing efforts.

C. Reciprocity Committee

In the absence of Ms. Hall, the committee chair, Mr. Aron called upon Mr. Moore for the committee report. He reported the staff had evaluated 76 applications for pharmacist licensure by reciprocity and that none of them contained information that warranted a committee-level review. In conformance with policies and procedures previously approved by the Board, the staff approved the applications and issued the credentials.

Finally, he closed the report with appreciation to the other committee members for their ongoing efforts.

D. Violations Committee

Mr. Aron called upon Mr. Bond for the committee report. Mr. Bond reported the committee held an informal conference on March 9-10, 2016 to consider their posted agenda which included 21 cases: 5 pharmacists, 6 pharmacy technicians, 4 pharmacy technician candidates, and 5 pharmacy permits. Prior to the meeting date, the chair granted continuances for two of the respondents. After interviews and deliberations at the meeting, the committee granted two additional continuances and took no formal action against eight of the respondents. The committee entered into a non-disciplinary agreement with one of the respondents, and then offered proposed voluntary consent agreements to the remaining eight respondents. Of that number, four executed their agreements for the Board's consideration that day. Of the four respondents who did not execute their proposed agreements, two have requested a re-hearing, which have been granted, and the final two respondents have been scheduled for the administrative hearing scheduled the following day. Mr. Bond directed the members to copies of the proposed consent agreements in their meeting binder, and then presented the following files to the members for their consideration.

Shantell Marie Chriss (CPT.011329) Mr. Bond moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board assessed a fine of \$250 plus administrative costs.

Allergy Choices, Inc. d/b/a AllergyChoices Pharmacy (PHY.005859) Mr. Bond moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board assessed the permit owner a fine of \$5,000 plus administrative costs.

Khaliah Nicole Smith (CPT.007760) Mr. Bond moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board assessed a fine of \$250 plus administrative costs.

Chasity Nicole Green (PTC.021688) Mr. Bond moved to approve the proposed voluntary consent agreement. The motion was adopted after a

unanimous vote in the affirmative. The Board revoked the registration, and further, permanently prohibited the acceptance of any future application for the reinstatement of the registration or any other application for any other credential issued by the Board.

Mr. Bond reported the committee will meet on June 8-9 to consider that docket of 25 cases, which includes 8 pharmacists, one pharmacy intern, 5 pharmacy technicians, 4 pharmacy technician candidates, and 7 pharmacy permits.

Finally, Mr. Bond concluded his report with appreciation to the other committee members for their ongoing efforts.

E. Impairment Committee

Mr. Aron called upon Mr. Rabb for the committee report. Mr. Rabb reported the committee met the previous day to consider five referrals from the staff. Following their interviews of the applicants and subsequent deliberations, the committee took no action for two of the respondents. Mr. Rabb then presented the following files to the members for their consideration.

Christi Lynn Louviere (CPT.006838) Mr. Rabb moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board approved the applicant's request for reinstatement of the previously lapsed certificate, then immediately suspended the certificate for five years and stayed the execution thereof, then placed the certificate on probation for five years, effective May 4, 2016, contingent upon the completion of certain requirements identified in the consent agreement.

Justin Matthew Scalfano (PST.018787) Mr. Rabb moved to extend the current period of probation by an additional five years. The motion was adopted after a unanimous vote in the affirmative. The Board extended the current period of probation by an additional five years, noting the extended probationary period was scheduled to conclude on August 17, 2021.

John Sherwood Bannister (PST.015778) Mr. Rabb moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board suspended the license for five years and stayed the execution thereof, then placed the license on probation for five years, effective May 4, 2016, subject to certain terms enumerated in the consent agreement.

Mr. Rabb then reported the committee had conducted its annual review of the Board's Roster of Approved Addictionists and determined that no changes were in order at that time. He then moved,

Resolved, to renew the Board's approval of the Roster of Approved Addictionists for Fiscal Year 2016-2017.

The motion was adopted after a unanimous vote in the affirmative.

Finally, Mr. Rabb closed his report with appreciation to his fellow committee members for their work the previous day and for the ongoing staff support.

F. Reinstatement Committee

Mr. Aron called upon Ms. Melancon for the committee report. Ms. Melancon reported the committee had not met since the previous Board meeting,

G. Tripartite Committee

Mr. Aron called upon Mr. Burch for the committee report. Mr. Burch reported the committee met on March 30. He reported the highlights of the reports from ULM School of Pharmacy and Xavier College of Pharmacy, as well as from La. Pharmacists Association and La. Society of Health-System Pharmacists. Following those reports, the committee discussed two the regulatory proposals pending relative to practical experience requirements for pharmacy interns as well as accreditation of pharmacy technician training programs. Mr. Burch reported an NACDS representative made a request to reconsider the apparent elimination of employer-sponsored training programs.

Mr. Burch closed his report with appreciation for his fellow committee members and their anticipated participation.

At this point, Mr. Aron re-ordered the agenda to delay the report from the Regulation Revision Committee until after lunch, giving audience members notice and opportunity for a reasonable lunch period. He then called for the next item on the agenda.

I. Executive Committee

Mr. Aron reported the committee had met the previous day to consider their posted agenda. He reminded the members of their usual procedure of performing the annual review of policy and procedure documents during the spring meeting of the Board. He indicated Mr. Rabb would offer several motions on behalf of the committee. Mr. Rabb then moved,

Resolved, that the Board approve the proposed revision of *Policy No. LPM.I.G.1 ~ Quarterly Inspection Form* in the Board's Loss Prevention Manual.

The motion was adopted after a unanimous vote in the affirmative. Mr. Rabb then moved,

Resolved, that the Board renew its approval of the updated Loss Prevention Manual for Fiscal Year 2016-2017.

The motion was adopted after a unanimous vote in the affirmative. Mr. Rabb then moved,

Resolved, that the Board renew its approval of the updated Policy & Procedure Manual for Fiscal Year 2016-2017.

The motion was adopted after a unanimous vote in the affirmative. Mr. Rabb

then moved,

Resolved, that the Board renew its approval of the updated Roster of Accredited Colleges & Schools of Pharmacy for Fiscal Year 2016-2017.

The motion was adopted after a unanimous vote in the affirmative. Mr. Rabb then moved,

Resolved, that the Board approve the Roster of Accredited Pharmacy Technician Training Programs for Fiscal Year 2016-2017.

The motion was adopted after a unanimous vote in the affirmative. Mr. Rabb then moved,

Resolved, that the Board approve the *Audit Engagement Letter for the 2016 Audit* by the Legislative Auditor, and further, to authorize the President and Executive Director to execute that document on our behalf.

The motion was adopted after a unanimous vote in the affirmative. Mr. Rabb then moved,

Resolved, that the Board approve the *Management's Representation Letter for the 2016 Audit* by the Legislative Auditor, and further, to authorize the President and Executive Director to execute that document on our behalf.

The motion was adopted after a unanimous vote in the affirmative.

Mr. Aron reported the committee also reviewed the administrative operations, found everything to be in order, and had no recommendations for any changes.

Mr. Aron closed his report with appreciation to the other committee members for their work the previous day.

With all of the committee reports except for Regulation Revision completed, Mr. Aron requested the staff reports.

10. Staff Reports

J. Report of Assistant Executive Director

Mr. Aron called upon Mr. Fontenot for his report. Mr. Fontenot then directed the members to a copy of the quarterly report on the Prescription Monitoring Program (PMP) report in their electronic meeting binder. He reviewed the report and all of the performance metrics.

Mr. Fontenot then directed the members to the requests for exemption from the PMP reporting requirements. Mr. Rabb moved,

Resolved, to authorize the issuance of PMP reporting waivers to:

- > PHY.002850-NR – Apria Pharmacy Network (PA);
- > PHY.007275-NR – Aureus Pharmacy (PA);
- > PHY.006741-NR – BioFusion (CA);
- > PHY.006631-NR – Conception Pharmacy (TN);
- > PHY.006950-NR – Leedstone Pharmacy (MN);
- > PHY.007238-NR – Meijer Pharmacy No. 463 (IN);
- > PHY.007273-NR – Onco360 (KY);

- > PHY.007287-HOS – P&S Surgical Hospital Pharmacy (LA);
 - > PHY.005609-NR – Rx Direct, Inc. (TX);
 - > PHY.006455-NR – TLC Pharmacy (FL); and
 - > PHY.007289-NR – Walgreens Specialty Pharmacy (OR)
- once they have executed the standard consent agreement for that purpose.

The motion was adopted after a unanimous vote in the affirmative.

Mr. Fontenot reported he was requested to participate on a national level task force composed of representatives from several national organizations which will be revising the model law and rules for state prescription monitoring programs. He reported the advisor for the task force had reviewed Louisiana's laws, rules, policies and procedures and found them to be well-constructed and would be including several sections almost verbatim in the model documents. Mr. Aron informed the members that participation on that task force was by invitation only, and that Mr. Fontenot's selection reflected very well on him personally as well as Louisiana's program.

Finally, Mr. Fontenot indicated completion of his report.

K. Report of General Counsel

Mr. Aron called upon Mr. Finalet for the report. Mr. Finalet then presented the following files to the Board for its consideration.

Benjamin Michael Myatt (PST.020062) Mr. Burch moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board issued a Letter of Reprimand, and further, assessed a fine of \$1,000 plus administrative costs.

Carepoint Healthcare, LLC d/b/a Carepoint Pharmacy (PHY.006678) Mr. Burch moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board issued a Letter of Warning, and further, assessed a fine of \$10,000 plus administrative costs.

Steven Arthur Levin (PST.020926) Mr. Burch moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board issued a Letter of Reprimand, and further, assessed a fine of \$1,000 plus administrative costs.

Kimanh Thi Truong (CPT.010191) Mr. Burch moved to accept the voluntary surrender of the credential. The motion was adopted after a unanimous vote in the affirmative. The Board accepted the voluntary surrender of the certificate, resulting in the active suspension of the certificate for an indefinite period of time, effective April 6, 2016.

Roy Edward Berkowitz (CDS.033853-MD) Mr. Burch moved to suspend the CDS license due to the suspension of the physician's medical license by the La. State Board of Medical Examiners. The motion was adopted after a

unanimous vote in the affirmative. The Board suspended the CDS license for an indefinite period of time, effective January 11, 2016.

Maurice Jean Gremillion (CDS.006091-MD) Mr. Pitre moved to suspend the CDS license due to the suspension of the physician's medical license by the La. State Board of Medical Examiners. The motion was adopted after a unanimous vote in the affirmative. The Board suspended the CDS license for an indefinite period of time, effective January 11, 2016.

Terrica Terrell Williams (CDS.044842-APN) Mr. Bond moved to suspend the CDS license due to the voluntary surrender of the nurse's federal registration to the DEA. The motion was adopted after a unanimous vote in the affirmative. The Board suspended the CDS license for an indefinite period of time, effective March 24, 2016.

Charles Bertram Morrison (CDS.032937-DDS) Mr. Bond moved to suspend the CDS license due to the dentist's failure to remedy his NSF payment for the renewal of his CDS license, despite multiple notices from the staff. The motion was adopted after a unanimous vote in the affirmative. The Board suspended the CDS license for an indefinite period of time, effective May 4, 2016.

Finally, Mr. Finalet indicated the completion of his report.

At this point, Mr. Aron declared a luncheon recess. It was noted the members recessed at 11:10 a.m. and then reconvened at 12:40 p.m. Mr. Aron returned to the committee reports on the agenda and requested the one remaining committee report.

It was noted that Mr. Soileau departed the meeting during the luncheon recess, and further, that Mr. McKay arrived at 12:40 p.m.

9. *Committee Reports*

H. Regulation Revision Committee

Mr. Aron called upon Mr. McKay for the committee report. Mr. McKay noted the committee met on March 30 and April 21. During those meetings, the members completed their work on several agenda items that would be reported during this meeting.

Consideration of Comments & Testimony from April 19 Public Hearing re Regulatory Project 2015-4 ~ Compounding for Office Use for Veterinarians

Mr. McKay began by reminding the members of their work on the proposed rule relative to compounding for office use for veterinarians at the last Board meeting, during which they approved a revision to the original proposal, placing pharmacists on notice as to the lack of clear federal authority for that activity. Mr. McKay reported staff had published that proposed revision and conducted a public hearing on April 19 to receive comments and testimony on the proposed revision. Mr. McKay directed the

members to their meeting binder for a compilation and summary of those comments. He advised the members the task for them was to consider the comments and determine whether any additional changes to the original proposal were in order, or whether they should submit the project documents to the legislative oversight committee and complete the regulatory project. Mr. Aron recognized Dr. Ryan and Dr. Marullo from the La. Veterinary Medical Association, who reiterated their support for the Board's proposed revision. Following additional discussion from the members, Mr. McKay moved

Resolved, to instruct the executive director to transmit appropriate replies to the three letters offered at the April 19, 2016 public hearing, to then compile and transmit the Second Report to the Joint Legislative Oversight Committee on Health & Welfare, and to then publish the revised original proposal as a Final Rule in the Louisiana Register.

The motion was adopted after a unanimous vote in the affirmative.

Marketing Activities by Pharmacies (Act 409 of the 2015 Legislature)

Mr. McKay reminded the members they had referred this item to the committee during the August 2015 Board meeting with a request to determine whether any additional rulemaking was required. Following multiple discussions during their meetings, the committee members determined the existing statutory language was clear enough and that no additional rulemaking was required. Mr. McKay informed the board members the committee was returning this assignment to the Board with no regulatory proposal. The Board members accepted the return without comment.

Regulatory Proposal 2015-J ~ Accreditation of Pharmacy Technician Training Programs (Draft #4)

Mr. McKay reminded the members they had referred this item to the committee during the November 2015 meeting, following their adoption of an emergency rule to delay the implementation of the accreditation requirement for one year, in order to revise the chapter of rules. In particular, the members desired to re-locate the requirement – from completion of an accredited program as a qualification for the pharmacy technician certificate to enrollment in an accredited program as a qualification for the pharmacy technician candidate registration. Mr. McKay reported the committee developed a proposal to accomplish that task, and further, the Board had engaged additional stakeholder input by discussing the proposal at the Tripartite Committee meeting. Mr. McKay then moved,

Resolved, to approve Regulatory Proposal 2015-J ~ Accreditation of Pharmacy Technician Training Programs (Draft #4), and further, to authorize the Executive Director to promulgate the proposed rule amendments upon the instruction of the President, and further, to authorize the President to approve acceptable amendments as may become necessary during the promulgation process.

The motion was adopted after a unanimous vote in the affirmative.

Regulatory Proposal 2016-B ~ Internship Requirements (Draft #5)

Mr. McKay reported this topic was referred to the committee to determine whether it was appropriate to still require additional hours of practical experience beyond that which is offered during the professional pharmacy degree curriculum. An earlier version of the proposal was also shared with the Tripartite Committee to obtain additional stakeholder input from the pharmacy educators and practitioners. Mr. McKay then moved,

Resolved, to approve Regulatory Proposal 2016-B ~ Internship Requirements (Draft #5), and further, to authorize the Executive Director to promulgate the proposed rule amendments upon the instruction of the President, and further, to authorize the President to approve acceptable amendments as may become necessary during the promulgation process.

The motion was adopted after a unanimous vote in the affirmative.

Regulatory Proposal 2016-D ~ Equivalent Drug Product Interchange (Draft #1)

Mr. McKay reminded the members of the referral of this item to the committee pursuant to Act 391 of the 2015 Legislature, which concerned the dispensing of certain interchangeable biological products. The committee developed a proposal to revise the current rule and voted to recommend the proposal to the Board. Mr. McKay then moved,

Resolved, to approve Regulatory Proposal 2016-D ~ Equivalent Drug Product Interchange (Draft #1), and further, to authorize the Executive Director to promulgate the proposed rule amendments upon the instruction of the President, and further, to authorize the President to approve acceptable amendments as may become necessary during the promulgation process.

The motion was adopted after a unanimous vote in the affirmative.

It was noted Mr. Resweber arrived at the meeting at approximately 1:15 p.m.

Mr. McKay closed his report by identifying the remaining agenda topics and expressing his appreciation to the other committee members for their ongoing efforts, as well as the staff's assistance.

10. *Staff Reports*

L. *Report of Executive Director*

Mr. Aron called upon Mr. Broussard for the report. Mr. Broussard directed the members to his report which was posted in the Boardroom Library prior to the meeting; it was also included in the meeting binder. He reviewed the following topics:

- Meeting Activity
- Reports

Census Reports – Credentials & Compliance Divisions

Production Reports – Credentials Division
Exceptions Report

- Examinations
 - MPJE
 - NAPLEX
 - PARE
 - PTCB
- Operations
 - Credentials Division
 - Compliance Division
- State Activities
 - 2016 Regular Session of Louisiana Legislature
 - eQHealth, Partner, Quality Improvement Network
- National Activities
 - National Association of Boards of Pharmacy (NABP)
 - NABP-AACP District 6
 - MALTAGON
- International Activities
 - International Pharmaceutical Federation (FIP)
 - World Health Professions Alliance (WHPA)

Finally, Mr. Broussard indicated the completion of his report.

12. CDS License for Third-Party Logistics (3PL) Providers

Mr. Aron requested Mr. Broussard review the memorandum he prepared for the members relative to third-party logistics providers. Following his review and a short discussion, Mr. Aron referred the matter to the Regulation Revision Committee, for the development of legislative and regulatory proposals necessary to properly regulate those entities' activities with respect to controlled dangerous substances.

13. Announcements

Mr. Aron directed the members to the announcements in their meeting binder.

14. Recess

Having completed the tasks itemized on the posted agenda, with no further business pending before the Board, and without objection, Mr. Aron recessed the meeting at 1:40 p.m.

* * * * *

An Administrative Hearing was convened on Thursday, May 5, 2016 in the Boardroom of the Board's office, located at 3388 Brentwood Drive in Baton Rouge, Louisiana. The hearing was held pursuant to public notice, each member received notice, each respondent received notice (unless specifically stated otherwise in the official transcript), and notice was properly posted.

A. Call to Order

Mr. Aron called the meeting to order at 8:35 a.m.

B. Invocation & Pledge of Allegiance

Mr. Aron called upon Mr. Bond for the invocation, and then Mr. Pitre led the group in the recitation of the Pledge of Allegiance

C. Quorum Call

Mr. Aron called upon Secretary Bond and he called the roll. After doing so, he certified Ms. Hall, Mr. Indovina, and Ms. Reed were absent; however, the remaining 14 members were present, constituting a quorum for the conduct of official business.

D. Call for Additional Agenda Items & Adoption of Agenda

Mr. Aron asked if there were any additional agenda items, and none were requested. With no objection, the Board adopted the posted agenda for the meeting. He then requested authority to re-order the agenda as may become necessary, and there was no objection to that request.

** Statement of Purpose*

Mr. Aron reminded the members of the purpose and mission of the Board of Pharmacy by reciting the relevant portion of the Louisiana Pharmacy Practice Act. He urged the members to keep their mission in mind as they considered all the matters before them.

E. Opportunity for Public Comment

Mr. Aron reminded the members and guests the Open Meetings Law requires all public bodies to provide an opportunity for public comment at all meetings and prior to the vote on each agenda item. He solicited comments from the guests, but none were offered.

Appearances

Mr. Aron indicated he would serve as the Hearing Officer, Ms. Celia R. Cangelosi and Mr. Carlos Finalet as the Prosecuting Attorneys, Ms. Susan Erkle as the Official Recorder, and Mr. Malcolm Broussard as the Hearing Clerk. Without objection, Mr. Aron waived the reading of the posted agenda and instead directed the insertion thereof into these minutes. The posted agenda is re-created here.

A G E N D A

NOTE: This agenda is tentative until 24 hours in advance of the meeting, at which time the most recent revision becomes official.
Revised 04-30-2016

- A. Call to Order
- B. Invocation & Pledge of Allegiance
- C. Quorum Call
- D. Call for Additional Agenda Items & Adoption of Agenda
- E. Opportunity for Public Comment

- F. Formal Hearings
- | | | |
|-----|---|------------------|
| 01. | PHY.006186 – Fairview Pharmacy Services, LLC <i>d/b/a</i>
Fairview Specialty Services Pharmacy | Case No. 15-0239 |
| | + | |
| 02. | PST.019686 – Paul Andrew Fischer | Case No. 15-0322 |
| 03. | PTC.021391 – Ashley Kristen Simon | Case No. 15-0318 |
| 04. | CPT.011200 – Shernarriane Quintelle Marshall | Case No. 15-0254 |
- G. Adjourn

F. Formal Hearings

Mr. Aron asked Mr. Finalet if he was prepared to begin and he informed the members the first two respondents listed on the agenda had just accepted their proposed voluntary consent agreements. If the members were prepared to approve the agreements, then the formal hearings for those two cases would be cancelled.

Fairview Pharmacy Services, LLC *d/b/a* Fairview Specialty Services Pharmacy (PHY.006186) Mr. Pitre moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board assessed the permit owner fine of \$10,000 plus administrative, investigative, and prosecutorial costs.

Paul Andrew Fischer (PST.019686) Mr. McKay moved to approve the issuance of a non-disciplinary Letter of Noncompliance in lieu of taking formal disciplinary action. The motion was adopted after a unanimous vote in the affirmative. The Board issued a non-disciplinary Letter of Noncompliance in lieu of taking formal disciplinary action.

Ashley Kristen Simon (PTC.021391) Mr. Finalet appeared for the Board and noted the absence of the respondent or counsel. After verifying the absence of the respondent, Mr. Aron ruled the hearing would proceed as scheduled in the form of a default proceeding. Mr. Finalet presented an opening statement, no witnesses, and six exhibits (one of which was placed under seal). He then offered a closing statement, proffered proposed findings of fact, conclusions of law, and board order, and then tendered the matter to the hearing panel for its consideration. Mr. McKay moved to enter into executive session for the purpose of deliberating the disciplinary matter and discussing the respondent's professional competency. The motion was adopted after a unanimous roll call vote in the affirmative.

It was noted the hearing panel entered executive session at 8:45 a.m. and then reconvened in open session at 9:00 a.m.

Mr. McKay moved,

Resolved, that the Board's hearing panel, having heard the

testimony and considered the evidence, accept the Findings of Fact as proposed by the Prosecuting Attorney, adopt them as our own, and then enter them into the hearing record.

The motion was adopted after a unanimous vote in the affirmative. Mr. McKay then moved,

Resolved, that the Board's hearing panel accept the Conclusions of Law as proposed by the Prosecuting Attorney, adopt them as our own, and then enter them into the hearing record.

The motion was adopted after a unanimous vote in the affirmative. Mr. McKay then moved,

Resolved, that the hearing panel enter the following order at this time:

It is ordered, adjudged, and decreed that Louisiana Pharmacy Technician Candidate Registration No. 21391, held by Ashley Kristen Simon, shall be and is hereby revoked, effective on the entry of this order, and further, the respondent shall pay the following assessments:

- (1) A fine of \$500;
- (2) The administrative hearing fee of \$250; and
- (3) The investigative and hearing costs, including the costs of the prosecuting attorney, and the official recorder; and

It is further ordered the acceptance of any future application for the reinstatement of this registration, or any application for any other credential issued by the Board, shall be conditioned upon the satisfaction of the following terms:

- (1) Respondent shall have paid all assessments levied herein;
- (2) Respondent shall have no pending legal or disciplinary actions against her in any jurisdiction; and
- (3) Respondent shall have received a favorable recommendation for her return to the practice of pharmacy without posing a threat to the public's health, safety, or welfare pursuant to a medical evaluation from an addiction medicine specialist approved by the Board.

The motion was adopted after a unanimous vote in the affirmative.

Shernarriane Quintelle Marshall (CPT.011200) Mr. Finalet appeared for the Board and noted the absence of the respondent or counsel. After verifying the absence of the respondent, Mr. Aron ruled the hearing would proceed as scheduled in the form of a default proceeding. Mr. Finalet presented an opening statement, no witnesses, and eight exhibits (one of which was placed under seal). He then offered a closing statement, proffered proposed findings of fact, conclusions of law, and board order, and then tendered the matter to the hearing panel for its consideration. Mr. Soileau moved to enter into executive session for

the purpose of deliberating the disciplinary matter and discussing the respondent's professional competency. The motion was adopted after a unanimous roll call vote in the affirmative.

It was noted the hearing panel entered executive session at 9:15 a.m., that Dr. Simonson departed the hearing during the executive session, and that the panel reconvened in open session at 9:25 a.m.

Mr. McKay moved,

Resolved, that the Board's hearing panel, having heard the testimony and considered the evidence, accept the Findings of Fact as proposed by the Prosecuting Attorney, modify them by amending Item 8 to clarify the final sentence to read as follows: *"Neither the regular mailing nor the certified mailing were returned to the board office."*, and further, to adopt the amended findings as our own, and then enter them into the hearing record.

The motion was adopted after a unanimous vote in the affirmative. Mr. McKay then moved,

Resolved, that the Board's hearing panel accept the Conclusions of Law as proposed by the Prosecuting Attorney, adopt them as our own, and then enter them into the hearing record.

The motion was adopted after a unanimous vote in the affirmative. Mr. McKay then moved,

Resolved, that the hearing panel enter the following order at this time:

It is ordered, adjudged, and decreed that Louisiana Pharmacy Technician Certificate No. 11200, held by Shernarriane Quintelle Marshall, shall be and is hereby revoked, effective on the entry of this order, and further, the respondent shall pay the following assessments:

- (1) A fine of \$500;
- (2) The administrative hearing fee of \$250; and
- (3) The investigative and hearing costs, including the costs of the prosecuting attorney and the official recorder; and

It is further ordered the acceptance of any future application for the reinstatement of this certificate, or any application for any other credential issued by the Board, shall be conditioned upon the satisfaction of the following terms:

- (1) Respondent shall have paid all assessments levied herein;
- (2) Respondent shall have no pending legal or disciplinary actions against her in any jurisdiction; and
- (3) Respondent shall have received a favorable recommendation for her return to the practice of pharmacy without posing a threat to the public's

health, safety, or welfare pursuant to a medical evaluation from an addiction medicine specialist approved by the Board.

The motion was adopted after a unanimous vote in the affirmative.

Mr. Finalet indicated completion of the formal hearings scheduled for that day. Mr. Aron expressed his appreciation to Ms. Erkle for her services that day.

G. Adjourn

Having completed the tasks itemized on the posted agenda, with no further business pending before the Board, and without objection, Mr. Aron adjourned the meeting at 9:30 a.m.

Respectfully submitted,

Brian A. Bond
Secretary