



Louisiana Board of Pharmacy

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Minutes

Regular Meeting

&

Administrative Hearing

Wednesday, August 10, 2016 at 10:00 a.m.

Thursday, August 11, 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, August 10, 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 10:00 a.m.

2. Invocation & Pledge

Mr. Aron called upon Mr. Brian Bond, and he delivered the invocation. Mr. Ronald Moore 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
Ms. Jacqueline L. Hall
Mr. Richard M. Indovina, Jr.
Mr. Marty R. McKay
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
Dr. Deborah H. Simonson
Mr. Richard A. Soileau
Mr. Rhonny K. Valentine

Members Absent:

Mr. Ryan M. Dartez

Staff Present:

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

Guests:

Mr. C. Bevan Callicott – Nuclear Pharmacist
Ms. Catherine T. Tang – Pharmacy Intern, Xavier College of Pharmacy
Mr. Loudon Yantis – Pharmacist Gold Certificate Recipient
Mr. Charles Abbott and family – Guests of Loudon Yantis (Gold Certificate)
Ms. Samantha Brent – Guest of Loudon Yantis (Gold Certificate)

Ms. Penny Scruggins, CPA – Kolder, Champagne, Slaven & Co.
Mr. Russell Champagne, CPA – Kolder, Champagne, Slaven & Co.
Dr. William R. Kirchain – La. Pharmacists Association
Mr. Harold Engle – Gold Certificate Recipient
Mr. Andre Stoler – La. Independent Pharmacies Association
Mr. Ben J. Sims – Brookshire Grocery Company
Ms. Kelley Henderson – La. Pharmacists Association
Mr. Nick Caharin – National Association of Chain Drug Stores
Mr. Eric Torres – La. State Board of Medical Examiners
Ms. Linda Spradley – Spradley & Spradley
Mr. Tom Spradley – Spradley & Spradley
Mr. Sal Pace
Mr. Ken Bickford
Mr. Matt Moreau – La. Cannabis Association
Mr. Wes Hataway – La. State Medical Society

Mr. Bond certified 16 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, and Mr. Rabb requested the opportunity to add a discussion about the new legislation relative to naloxone. He reported the Executive Committee's consideration of Act 370 of the 2016 Legislature, which authorizes pharmacists to distribute naloxone pursuant to non-patient specific standing orders issued by medical practitioners, but only according to rules promulgated by the Board of Pharmacy. Mr. Rabb then moved,

Resolved, to add two proposed documents to the meeting agenda for our consideration during the report of the Executive Committee:

- (1) *Regulatory Proposal 2016-G ~ Standing Orders for the Distribution of Naloxone*; and
- (2) *Declaration of Emergency for Standing Orders for the Distribution of Naloxone*.

The motion was approved after a unanimous vote in the affirmative. Mr. Aron added the two new documents for consideration during the report of the Executive Committee. With no further requests for amendment, and with no objection, the Board adopted the posted agenda dated July 26, 2016 as amended that day. 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 May 4, 2016 and the Administrative Hearing on May 5, 2016, both of which were held in Baton Rouge, Louisiana. With no objections, he waived the reading of the draft minutes. 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. Broussard for the report. Mr. Broussard 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 May 5, 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 announced that two of the members present had been honored at the La. Pharmacists Association Annual Meeting in July; in particular, Mr. Blake Pitre received the ULM School of Pharmacy's Alumnus of the Year Award, and Mr. Marty McKay received the Bowl of Hygeia Award. The members and guests present congratulated the two award recipients with a round of applause.

Mr. Aron then announced Mr. Clovis Burch was celebrating a birthday that day; the members and guests present congratulated him with a round of applause.

9. *Special Order of the Day – Presentation of Pharmacist Gold Certificates*

Mr. Aron reported the Board issued 142 new pharmacist licenses during 1966, and of that number, 50 pharmacists had maintained their license for 50 years and were eligible to receive their Pharmacist Gold Certificates. He then informed the members that two of those pharmacists were present that day to receive their certificates. Mr. Aron then recognized Mr. Loudon D. Yantis and Mr. Harold G. Engle. He briefly reviewed highlights of their professional careers, presented their certificates, and encouraged them to offer their own comments. The members and guests present congratulated each of the recipients with a generous round of applause.

10. Committee Reports

A. Finance Committee

Mr. Aron called upon Mr. Pitre for the committee report. Mr. Pitre recognized Ms. Penny Scruggins, CPA and Mr. Russell Champagne, CPA, both from Kolder, Champagne, Slaven & Co. The Board has contracted with the firm since the late 1990s to provide accounting services for the Board; those services include their presentation of an annual review to the Board, and that visit is typically provided when the Board considers the final report for a fiscal year, typically in the August meeting.

Mr. Champagne reviewed the Final Report for Fiscal Year 2015-2016 which ended June 30, 2016. He then responded to questions from the members. Mr. Pitre then moved,

Resolved, that the Board accept the Final Report for Fiscal Year 2015-2016, subject to legislative audit.

The motion was adopted after a unanimous vote in the affirmative. Mr. Pitre then directed the members to a proposed amendment for the current fiscal year budget, which was reviewed by the Finance Committee the previous day. He then moved,

Resolved, that the Board approve, in globo, Proposed Budget Amendment No. 1 for Fiscal Year 2016-2017.

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

Mr. Aron expressed his appreciation to Mr. Champagne for his service to the Board since 1997.

Finally, Mr. Pitre closed his report with appreciation for his fellow committee members for their work the previous day.

B. Application Review Committee

Mr. Aron called upon Mr. Soileau for the committee report. Mr. Soileau reported the committee met on June 28 to consider eight referrals from the staff. Following their interviews of the applicants and subsequent deliberations, the committee authorized the issuance of one PST license, both intern registrations, and two of the pharmacy technician candidate registrations. Mr. Soileau then presented the following files to the Board for their consideration of the committee recommendations.

Eagle Pharmacy, Inc. d/b/a Eagle Pharmacy (Applicant for PHY Permit)

Mr. Soileau moved to deny the application and refuse to issue the credential. The motion was adopted after a unanimous vote in the affirmative. The Board denied the application and refused to issue the permit.

Shantale Marie Woods (Applicant for PTC Registration)

Mr. Soileau moved to deny the application and refuse to issue the credential. The motion was adopted after a unanimous vote in the affirmative. The Board denied the application and refused to issue the registration.

Roshaan Demond Roberson (Applicant for PTC Registration)

Mr. Soileau moved to deny the application and refuse to issue the credential. The motion

was adopted after a unanimous vote in the affirmative. The Board denied the application and refused to issue the credential.

Mr. Soileau reported the resolution of a case from a prior committee meeting and presented that file for the members' consideration.

Cartina Robinson Alford (Applicant for PTC Registration) Mr. Soileau moved to deny the application and refuse to issue the credential. The motion was adopted after a unanimous vote in the affirmative. The Board denied the application and refused to issue the registration.

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

C. Reciprocity Committee

Mr. Aron called upon Ms. Hall for the committee report. She reported the staff had evaluated 47 applications for pharmacist licensure by reciprocity since the last Board meeting 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.

Ms. Hall then reported staff had referred one applicant to the committee, and the committee had interviewed that applicant earlier that same day. Following their interview and deliberation, the committee recommended the approval of the application and the issuance of a license without restriction. On behalf of the committee, Ms. Hall moved,

Resolved, that the Board approve the application for a pharmacist license by reciprocity and authorize the issuance of a pharmacist license, without restriction, to Nitesh Ambalal Patel.

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

Finally, she 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 preliminary hearings on June 8-9, 2016 to consider their posted agenda, which included 25 cases: eight pharmacists, one pharmacy intern, five pharmacy technicians, four pharmacy technician candidates, and seven pharmacy permits. Prior to the meeting date, the chair granted continuances for four of the respondents. After interviews and deliberations at the meeting, the committee granted three additional continuances and took no formal action against four of the respondents. Six of the respondents failed to appear and the committee did not offer any proposals to them; of those six respondents, five have been scheduled for the formal hearing the following day and the sixth case has been deferred until a later hearing date. The committee issued non-disciplinary letters of non-compliance to three of the respondents and then offered proposed

voluntary consent agreements to the remaining five respondents. All of the respondents accepted their proposed consent agreements, and Mr. Bond presented those proposed agreements to the members for their consideration.

Wal-Mart Louisiana, LLC d/b/a Wal-Mart Pharmacy No. 10-7241 (PHY.007050) 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 \$25,000 plus administrative and investigative costs.

Gina Renee Dimattia (PST.018306) Mr. Bond 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 ordered the publication thereof, and further, assessed a fine of \$1,000 plus administrative costs.

LaTanya Chenell Frazier (PTC.021807) Mr. Bond moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board assessed administrative costs.

Wal-Mart Louisiana, LLC d/b/a Wal-Mart Pharmacy No. 10-1193 (PHY.004793) 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 \$2,500 plus administrative and investigative costs.

Shelette Marie Wade (PST.014865) Mr. Bond 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 August 10, 2016, subject to certain terms enumerated in the consent agreement, and further, assessed administrative and investigative costs.

Mr. Bond reported the committee will meet on September 21-22 to consider that docket of 29 cases, which includes eight pharmacists, one pharmacy intern, seven pharmacy technicians, two pharmacy technician candidates, and eleven 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 seven 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.

Ricky Thomas Guidry (PST.013683) Mr. Rabb 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, resulting in the active suspension of the license for an indefinite period of time, effective June 15, 2016.

Ashley Elizabeth Reynolds (PST.020382) Mr. Rabb moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board granted the respondent's request for reinstatement of the previously suspended license, converted the duration of the suspensive period from an indefinite term to a term of five years and stayed the execution of the suspension, then placed the license on probation for five years, effective August 10, 2016, subject to certain terms enumerated in the consent agreement.

Kacey Dore Keith (PST.020248) Mr. Rabb moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board granted the respondent's request for reinstatement of the previously suspended license, converted the duration of the suspensive period from an indefinite term to a term of five years and stayed the execution of the suspension, then placed the license on probation for five years, effective August 10, 2016, subject to certain terms enumerated in the consent agreement.

Ginger Allen Teekell (PST.016606) Mr. Rabb moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board granted respondent's request for reinstatement of the previously suspended license, converted the duration of the suspensive period from an indefinite term to a term of ten years and stayed the execution of the suspension, then placed the license on probation for ten years, effective August 10, 2016, subject to certain terms enumerated in the consent agreement.

Ronald Allen Barrett (PST.011925) Mr. Rabb moved to grant respondent's request for early termination of the probationary period. The motion was adopted after a unanimous vote in the affirmative. The Board terminated the probationary period, originally scheduled to conclude on February 15, 2021, and then restored the license to active and unrestricted status.

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 met the previous day to consider the eight referrals from staff. She then presented the following files to the members for their consideration.

Sumitra B. Patel (PST.010943) Ms. Melancon moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board granted respondent's request for reinstatement of the previously suspended license, then immediately placed the license on voluntary inactive status (which is not valid for practice in Louisiana), and further, required the respondent to meet with the Board at some future date before practicing pharmacy within the State of Louisiana.

Koya George Williams (CPT.006473) Ms. Melancon moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board granted respondent's request for reinstatement of the previously lapsed certificate, contingent upon the successful completion of certain requirements identified in the consent agreement.

Stephanie Ann Doyle (CPT.006096) Ms. Melancon moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board granted respondent's request for reinstatement of the previously lapsed certificate, contingent upon the successful completion of certain requirements identified in the consent agreement.

Robin Kaye Kelly (PST.013109) Ms. Melancon moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board granted respondent's request for reinstatement of the previously lapsed license, contingent upon the successful completion of certain requirements identified in the consent agreement.

LueShanda Anise Freeman (CPT.002681) Ms. Melancon moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board granted respondent's request for reinstatement of the previously lapsed certificate, contingent upon the successful completion of certain requirements identified in the consent agreement.

Charles Jude Mitchell, Jr. (PST.016284) Ms. Melancon moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board granted respondent's request for an extension of the deadline for the completion of certain requirements in his previous probationary order.

Aaron Wayne Nash (PST.010983) Ms. Melancon moved to grant respondent's request for early termination of the probationary period. The motion was adopted after a unanimous vote in the affirmative. The Board terminated the probationary period, originally scheduled to conclude on August 12, 2017, and then restored the license to active and unrestricted status.

Marco Bisa Moran (PST.016442) Ms. Melancon moved to rescind the previous order issued on February 24, 2016. The motion was adopted after a unanimous vote in the affirmative. The Board rescinded the previous order issued on February 24, 2016.

Ms. Melancon closed her report with appreciation to the other committee members for their work the previous day.

G. Tripartite Committee

Mr. Aron called upon Mr. Burch for the committee report. Mr. Burch reported the committee had not met since the last Board meeting.

At this point, Mr. Aron re-ordered the agenda by skipping over the final two committee reports, advanced to Staff Reports on the agenda and requested the Report from General Counsel.

11. Staff Reports

K. Report of General Counsel

Mr. Aron called upon Mr. Finalet for his report. Mr. Finalet then presented the following files to the members for their consideration.

Wickliffe Pharmaceuticals, Inc. d/b/a Wickliffe Veterinary Pharmacy (PHY.006255) Mr. McKay moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board suspended the permit for two years and stayed the execution thereof, then placed the permit on probation for two years, effective October 23, 2016, subject to certain terms, and further, assessed administrative costs.

Mark Anthony Carlson (PST.021483) Ms. Melancon 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.

Emma Osiris Dolmo (PST.017273) Mr. McKay 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.

Lee Eric Ori (PST.018721) Mr. McKay 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 two years, ten months, and thirteen days and stayed the execution of the suspension, then placed the license on probation for the original suspensive period, effective August 10, 2016 (to run concurrently with the probationary period imposed by the Missouri Board of Pharmacy), subject to certain terms enumerated in the consent agreement, and further, assessed administrative costs.

Nacho Nanette Hill (CPT.007175) Ms. Milano moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board revoked the certificate, and further, permanently prohibited the acceptance of any future application for the reinstatement of the certificate or any other application for any other credential issued by the Board.

Kevin Trenouth Kellow (PST.019095) Mr. Indovina 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, resulting in the active suspension of the license for an indefinite period of time, effective July 6, 2016.

Martha Lynn Coppage-Hoover (CDS.023811-MD) Mr. Pitre moved to suspend the controlled dangerous substance (CDS) license on the basis of the state medical board's suspension of the medical license. The motion was adopted after a unanimous vote in the affirmative. The Board suspended the CDS license for an indefinite period of time, effective April 11, 2016.

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

At this point, Mr. Aron requested the Report from the Assistant Executive Director.

J. Report of Assistant Executive Director

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

- Resolved**, to authorize the issuance of PMP reporting waivers to:
- > PHY.006117-NR – ARJ Infusion Services (KS);
 - > PHY.007276-NR – Aureus Pharmacy (MO);
 - > PHY.007311-NR – BeneVi Health (NC);
 - > PHY.007339-NR – Biologics (NC);
 - > PHY.007314-NR – BiologicTx (NJ);
 - > PHY.004441-HOS – DeQuincy Memorial Hosp. Pharmacy (LA);
 - > PHY.006662-NR – Eagle Pharmacy (FL);
 - > PHY.007325-NR – Elwyn Specialty Care (PA);
 - > PHY.005609-NR – Homescrpts (TX);
 - > PHY.004280-HOS – Lakeview Reg Med Ctr Pharmacy (LA);

- > PHY.006464-HOS – La. Med. Ctr. & Heart Hosp. Pharmacy (LA);
 - > PHY.006684-IR – LSU Health Baton Rouge – MidCity (LA);
 - > PHY.007225-NR – McKesson Patient Care Solutions (LA);
 - > PHY.006565-NR – Medex BioCare (TN);
 - > PHY.007319-NR – Mint Pharmacy & Skin Clinic (FL);
 - > PHY.005220-IN – ORTCA (LA);
 - > PHY.007309-NR – Reliable Pharmacy (FL);
 - > PHY.007324-NR – Revival Animal Health (IA);
 - > PHY.001048-HOS – St. Charles Parish Hospital Pharmacy (LA);
 - > PHY.006428-NR – SVP MEDS (TX); and
 - > PHY.007208-NR – Y Medical Associates (TX)
- once they have executed the standard consent agreement for that purpose.

The motion was adopted after a unanimous vote in the affirmative. Mr. Aron directed Mr. Fontenot to advise Diamond Pharmacy Services the Board declined to grant their request for an exemption.

Mr. Fontenot reviewed the history of the Board's contract for the vendor to manage the state PMP. He then reported on the recent transition from the previous platform to the upgraded platform.

He also notified the members that the Texas PMP is in transition from their Dept. of Public Safety to their Board of Pharmacy. He reported he had already been working with the Texas Board of Pharmacy, and when the Texas Board of Pharmacy assumes responsibility for the Texas PMP on September 1, 2016, data sharing with the Texas PMP should be operational from the first day.

He then reported on the staffing of the Board's Credentials Division. He acknowledged some previous staffing issues, reported some changes, and indicated there is no backlog of unprocessed applications.

He reported the Board's compliance officers had been working with a new inspection form in those pharmacies engaged in interstate practice activities. In reply to questions from a member, he reported that all of the Board's compliance officers have received intensive training in the inspection of sterile compounding facilities. He also reported that CriticalPoint has a certification program for state board compliance officers for USP Chapters 795, 797, and 800. The Board's newest compliance officer, Mr. Daniel Dennis, had just completed the certification course, and the other compliance officers were being scheduled to attend as opportunities arose.

Finally, Mr. Fontenot indicated completion of his report.

At this point, Mr. Aron declared a luncheon recess. It was noted the members recessed at 11:55 a.m. and then reconvened at 1:05 p.m. Mr. Aron returned to the committee reports on the agenda and elected to begin with the Executive Committee's report.

10. *Committee Reports*

I. Executive Committee

Mr. Aron reported the committee had met the previous day to consider the items on their posted agenda. The committee developed several

recommendations for the Board's consideration. Mr. Aron requested Mr. Rabb to offer those motions. Mr. Rabb moved,

Resolved, to refer Act 310 (HB 671), relative to re-dispensing of drugs in correctional center pharmacies, to the Regulation Revision Committee, for their review of the new law and development of a proposal to revise the Board's current rule relative to penal pharmacy permits.

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

Resolved, to approve Regulatory Proposal 2016-G ~ Standing Orders for the Distribution of Naloxone (Draft #1), and further, to authorize the Executive Director to promulgate the proposed rule upon the instruction of the President, and further, to authorize the President to approve any acceptable amendments as may become necessary during the promulgation process.

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

Resolved, to approve the proposed Declaration of Emergency for Standing Orders for the Distribution of Naloxone, and further, to fix the effective date for the new rule today, August 10, 2016.

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

Resolved, to request the Executive Director comply with the directives of HCR 113 relative to the Louisiana Commission on Preventing Opioid Abuse.

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

Resolved, to refer Act 189 (SB 56), relative to the establishment of standards for the retention, archiving, and destruction of prescription monitoring program (PMP) information to the Regulation Revision Committee, for their review of the new law and development of a proposal to amend the Board's PMP rules.

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

Resolved, to request the Executive Director comply with the directives of SCR 65 relative to the Task Force on Meaningful Oversight of Healthcare Licensing Boards.

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

Resolved, to refer SCR 87, relative to a study of the terms "specialty drug" and "specialty pharmacy" to the Regulation Revision Committee, to comply with the directives of the resolution.

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

Resolved, to direct the utilization of the new inspection forms for those pharmacies performing sterile compounding and nonsterile compounding services for the benefit of Louisiana residents no

later than September 1, 2016. For those nonresident pharmacies whose resident board inspection forms do not satisfactorily document compliance with the relevant USP standards, by means of an equal or greater level of detail as the Louisiana Board of Pharmacy inspection form as determined by Board staff, the pharmacy shall be inspected by the Board or the Board's agent (NABP VPP inspection).

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

Resolved, to notify all pharmacy permits prior to January 1, 2017 of the new inspection requirement that will become effective with the renewals of pharmacy permits for the January 1, 2018: the pharmacy shall document a satisfactory inspection report dated less than two years prior to the date of the renewal application.

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

Mr. Aron then asked Mr. Broussard to elaborate on the new staffing allocation that was approved as part of the budget amendment approved by the full Board earlier that day. Mr. Broussard started by reminding the members of the current organizational chart for their office and reminded them of the absence of an incumbent in the Chief Compliance Officer position. He reminded them of the evidence of credential growth as reflected in the credential production reports as well as the financial reports. He suggested the propriety of filling the vacancy in the Chief Compliance Officer as well as hiring a new staff Pharmacist Compliance Officer. He also reported the plan to hire two administrative personnel, one to work with the prescription monitoring program, and the other to assist the three administrative officers. He indicated the office would begin the personnel activities required by the state civil service necessary to fill those positions during the fall of 2016.

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

H. Regulation Revision Committee

Mr. Aron called upon Mr. McKay for the committee report. Mr. McKay noted the committee met on June 28 as well as the previous day. He reported the committee had one new regulatory proposal for the Board's consideration but first the members needed to consider the comments and testimony from the May 25 public hearing on a previous regulatory project.

Consideration of Comments & Testimony from May 25 Public Hearing re Regulatory Project 2016-2 ~ Pharmacist-in-Charge in Nonresident Pharmacies

Mr. McKay began by reminding the members of their work on the proposed rule relative to pharmacists-in-charge in nonresident pharmacies. He reviewed the single commentator's remarks objecting to the inclusion of the requirements for two years of practice and for a minimum number of hours of presence in the pharmacy. He noted the difficulty cited by the commentator is applicable to all pharmacies, not just the nonresident

pharmacies. With no request from any member to revise the proposal, Mr. McKay moved,

Resolved, to instruct the executive director to transmit an appropriate reply to the letter from CVS Health offered at the May 25 public hearing, to then compile and transmit the Second Report to the Joint Legislative Oversight Committee on Health & Welfare, and to then publish the original proposal as a Final Rule in the Louisiana Register.

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

Regulatory Proposal 2016-A ~ Marijuana Pharmacy (Draft #5)

Mr. McKay began by reminding the members of Act 261 of the 2015 Legislature establishing the statewide medical marijuana program, as well as the subsequent Act 96 of the 2016 Legislature. He noted the Board referred the matter to the committee in August 2015 and reported the committee held multiple meetings with stakeholders during the previous twelve months, including a special meeting the previous day where additional amendments were made. He then moved,

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

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

Mr. McKay then identified the remaining issues on the committee's agenda. He closed his report with appreciation to the other committee members as well as for the staff support of their efforts.

At this point, Mr. Aron declared a brief recess. It was noted the members recessed at 2:40 p.m. and then reconvened at 3:10 p.m. Mr. Aron then requested the single remaining report.

11. *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
 - Annual Statistical Summary for Compliance Division
- Examinations

MPJE
NAPLEX
PARE
PTCB

- Operations
 - Credentials Division
 - Compliance Division
 - Administrative Division
- State Activities
 - 2016 Regular Session of Louisiana Legislature
- National Activities
 - National Association of Boards of Pharmacy (NABP)
 - NABP-AACP District 6
 - MALTAGON
- International Activities
 - International Pharmaceutical Federation (FIP)

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

12. Request for Approval of Immunization Training Program

Mr. Aron requested Mr. Broussard review the request from the Arizona Pharmacy Association. The members asked Mr. Broussard to review the list of existing approved providers. Having considered the list of approved providers, the members questioned the necessity of approving additional providers. In the absence of a motion from the members, Mr. Aron directed Mr. Broussard to advise the petitioner the Board did not disapprove their request, but merely declined to approve their request.

13. Announcements

Mr. Aron directed the members to the announcements in their meeting binder. Several of the members requested consideration of changing the hotel used by the Board. Mr. Aron indicated he would ask the office manager to investigate the proposed location and their ability to offer state rates to the members and staff.

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 3:15 p.m.

* * * * *

An Administrative Hearing was convened on Thursday, August 11, 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 8:30 a.m.

B. Invocation & Pledge of Allegiance

Mr. Aron called upon Mr. Bond for the invocation, and then Ms. Milano 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 Mr. Valentine was absent; however, the remaining 16 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 08-07-2016

- 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. | PST.016442 – Marco Bisa Moran | Case No. 15-0346 |
| 02. | CPT.012478 – Latoya Ranisha Robinson | Case No. 16-0027 |
| 03. | CPT.010966 – Sarah Elizabeth Kiley | Case No. 16-0068 |
| 04. | CPT.009432 – Christine Annette McGraw | Case No. 16-0103 |
| 05. | PTC.022001 – Debra Ann Mercadel | Case No. 16-0074 |
| 06. | PTC.022223 – Kenyeta Rashun Graham | Case No. 16-0043 |
- G. Adjourn

F. Formal Hearings

Latoya Ranisha Robinson (CPT.012478) 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 five exhibits. 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. Moore 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 8:50 a.m.

Ms. Hall 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. Ms. Hall 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. Ms. Hall 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. 12478, held by Latoya

Ranisha Robinson, 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 \$1,000;
- (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; and
- (2) Respondent shall have no pending legal or disciplinary actions against her in any jurisdiction.

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

Immediately following the conclusion of the first case, Mr. Aron informed the members and guests of a change in the membership of the hearing panel. In particular, the members of the Reinstatement Committee meeting on February 23, 2016 were recused from the hearing on the next case due to their prior knowledge of the case. All of the remaining members of the Board present served as the hearing panel for the case. In addition, Mr. Aron recused himself from the case, and appointed Mr. McKay – the ranking board officer not recused – as the hearing officer for the case.

Marco Bisa Moran (PST.016442) Ms. Cangelosi appeared for the Board. Ms. Jennifer Thomas appeared for the respondent, and the respondent Marco Bisa Moran, was also present. Ms. Cangelosi offered an opening statement. At the outset of her opening statement, Ms. Thomas filed an objection to the composition of the hearing panel, noting the panelists were active market participants, and further, such a composition was contrary to the holding of the U.S. Supreme Court in the *North Carolina State Dental Board Examiners v. Federal Trade Commission*, but agreed to participate in the hearing. Mr. McKay noted her objection and requested she continue with her opening statement. At the conclusion of the respondent's opening statement, Ms. Cangelosi offered a rebuttal to the objection to the composition of the hearing panel; she noted an opinion from the Four Circuit Court of Appeal which held a board's composition of active market participants was not a barrier to disciplinary proceedings against a single licensee, but was relevant in the issuance of opinions and orders affecting scope of practice of multiple licensees. Mr. McKay requested Ms. Cangelosi present her case. Ms. Cangelosi presented one witness and 23 exhibits. During the presentation of Ms. Cangelosi's exhibits, Ms. Thomas filed a motion requesting Board's Exhibit C be placed under seal. Ms. Cangelosi suggested the record was in the public domain, but offered to allow the decision on the motion to be made after the hearing but before any potential appeal proceeding. Ms. Thomas presented one witness (respondent) and 9 exhibits.

Both attorneys offered closing statements, then proffered proposed findings of fact, conclusions of law, and proposed orders. The case was then tendered to the hearing panel for its consideration. Mr. Moore 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 3:00 p.m. and then reconvened in open session at 4:40 p.m.

Mr. Moore 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 Respondent's Attorney, modify them by:

➤ Amending Item 8 to read *"On January 31, 2008, the Mississippi Board of Pharmacy investigated Delta Pharmacy in Cleveland, Mississippi for discrepancies in the records of receipt and disposal of controlled substances listed in Schedules III, IV, and V, as well as carisoprodol, and for shipping prescription drugs to other states without the pharmacy permits required to engage in that activity. Mr. Moran was the Pharmacist-in-Charge at the time of the investigation. The Mississippi Board of Pharmacy ordered Mr. Moran to pay a cost of the investigation, but held a one year suspension and monetary penalties in abeyance. Mr. Moran's Mississippi license remained on probation without any additional time added to the original ten year term. [Board Exhibit J]"*;

➤ Deleting Items 10, 12, 13, 30, and 34; and further, To accept the Findings of Fact as proposed by the Prosecuting Attorney, modify them by:

➤ Amending Item 5-u to delete the words *"met with Marco B. Moran, and"*;

➤ Amending Item 9 to reflect the presence of the respondent at these proceedings; and

➤ Amending Item 10 to reflect the respondent's representation by Jennifer Thomas; and further,

To enter 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. Moore then moved,

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

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

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

It is ordered, adjudged, and decreed that the application for the reinstatement of Louisiana Pharmacist License No. 16442, held by Marco Bisa Moran, shall be, and is hereby, denied, effective on the entry of this order; and further, the respondent shall pay the following assessments:

- (1) The administrative hearing fee of \$250; and
- (2) 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 license, 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 hearing; and
- (2) Respondent shall have no pending legal or disciplinary matters against him in any jurisdiction.

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

Mr. McKay relinquished the chair to Mr. Aron. Mr. Aron asked Mr. Finalet about the four remaining cases scheduled for hearing that day. Mr. Finalet suggested that due to the lateness of the hour, the impending severe weather system in the area, and the fact that the credentials at issue are no longer active, it would be wise to defer the four remaining cases until the November session. Mr. Aron agreed.

Mr. Aron expressed his appreciation to Ms. Cangelosi and Ms. Erkle for their 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 2:45 p.m.

Respectfully submitted,

Brian A. Bond
Secretary