



Louisiana Board of Pharmacy
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Minutes

Regular Meeting

Thursday, April 2, 2020 at 4:00 p.m.

Location:

Teleconference

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A special meeting of the Louisiana Board of Pharmacy was held on Thursday, April 2, 2020 by teleconference. As noted on the meeting agenda, the Board certified it could not achieve an in-person quorum due to the provisions of *Governor's Proclamation No. 33 JBE 2020 ~ Additional Measures for COVID-19 – Stay at Home*. Therefore, as permitted by *Governor's Proclamation No. JBE 2020-30 ~ Additional measures for COVID-19 Public Health Emergency*, the Board elected to conduct its meeting by teleconference.

1. Call to Order

Mr. Carl Aron, President, called the meeting to order at 4:00 p.m.

2. Quorum Call

Mr. Aron called upon the Secretary, Mr. Richard Indovina, to call the roll of members to establish a quorum.

Members Present:

Mr. Carl W. Aron
Mr. Allen W. Cassidy, Jr.
Dr. J. Robert Cloud
Ms. Jacqueline L. Hall
Mr. Richard M. Indovina, Jr.
Mr. Kevin LaGrange (late arrival)
Mr. Robert C. LeBas
Mr. Richard Mannino
Mr. Marty R. McKay
Mr. Ronald E. Moore
Mr. Blake P. Pitre (late arrival)
Mr. Don L. Resweber
Mr. Douglas E. Robichaux
Dr. Sajal K. Roy
Mr. Richard A. Soileau
Dr. Raymond J. Strong
Mr. Rhonny K. Valentine

Staff Present:

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

Guests:

Dr. Raven S. Jackson
Dr. William R. Kirchain
Dr. Lovie F. Rodgers
Ms. Paula K. Belle

Mr. Indovina certified Mr. LaGrange and Mr. Pitre were absent; however, 15 members were present, constituting a quorum for the conduct of official business. It was noted

that Mr. LaGrange and Mr. Pitre joined the call shortly thereafter.

3. *Call for Additional Agenda Items & Adoption of Agenda*

Mr. Aron asked if there were any additional agenda items to be added. With no requests to amend the agenda, and without objection, the members adopted the agenda dated April 1, 2020. Mr. Aron requested authority to re-order the agenda as may become necessary and there were no objections to that request.

4. *Special Orders of the Day*

A. Request for Declaratory Statement

(1) *Is it within the scope of practice for a pharmacist to collect a nasopharyngeal specimen on a swab?*

Mr. Aron reported the question came from the Dept. of Health as they considered asking or allowing pharmacists to participate in an expansion of the state's testing capacity. He indicated there are no pharmacy laws or rules specifically relative to the collection of specimens by a pharmacist. He also indicated that staff had consulted with the La. State Board of Medical Examiners since that board regulates the practice of clinical medicine; staff determined there are no apparent conflicts. Mr. Aron reminded the members the Board had issued two previous statements related to the topic. In particular:

- During its November 2009 meeting, the Board issued an advisory opinion (*PPM.I.A.9 ~ Moderately Complex Laboratory Tests*) to a hospital that it was within the scope of practice for a pharmacist to perform moderately complex laboratory testing procedures, as defined by the Clinical Laboratory Improvement Amendments of 1988 (CLIA), provided the pharmacist maintains evidence of all education and training relevant to that practice activity. Neither the request for the opinion nor the opinion itself referenced the collection of specimens for such testing.
- During its August 2014 meeting, the Board issued a declaratory statement (*PPM.I.A.18 ~ Medication Therapy Management in Pharmacy Practice*) which includes a reference to performing or obtaining necessary assessments of a patient's health status.

He then directed the members to their meeting packet for copies of those two statements as well as a reminder of the statutory definition of the practice of pharmacy. He questioned the members as their opinion.

Several members raised concerns for the lack of training in the collection of nasopharyngeal specimens as well as the inherent dangers in the current COVID-19 pandemic, and they suggested pharmacists should not be involved with such testing. One member pointed to the previous statements and suggested it was within the scope of practice for pharmacists who wished to engage in that activity. Following considerable discussion, Mr. McKay moved,

Resolved, to defer consideration of the question until a future date.

Mr. Aron solicited public comments. Some commentators suggested the question may evolve to consider the collection of nasal swabs in addition to nasopharyngeal specimens. One commentator reminded the members they had approved a legislative proposal at their previous board meeting seeking to expand the pharmacy practice act to include limited prescriptive authority for drugs, devices, and lab tests; and further, the activity contemplated in the current question was one example of such activity contemplated in the legislative proposal. The motion was adopted after a majority roll call vote in the affirmative; Mr. LeBas objected.

Mr. Aron requested staff to communicate the Board's reply to the Dept. of Health.

B. Requests for Clarification of Guidance Documents

(1) Application of Guidance Document ~ Remote Processing by Pharmacy Personnel to nonresident pharmacies.

Mr. Aron directed the members to the staff memo in their meeting packet which described a request for clarification from the representative of a nonresident pharmacy as to whether this guidance document issued on March 21 was intended to apply to pharmacy personnel of a nonresident pharmacy who are licensed by the resident board of pharmacy but not the Louisiana Board of Pharmacy. Following considerable discussion, the Board determined its guidance document was not applicable to pharmacy personnel licensed by other state boards of pharmacy. Mr. Aron requested staff to communicate the Board's reply to the nonresident pharmacy.

(2) Conflict between Guidance Document ~ Remote Processing by Pharmacy Personnel and Guidance Document ~ Flexible Staffing Ratios

Mr. Aron directed the members to the staff memo in their meeting packet which describes the two guidance documents as well as requests from multiple pharmacies suggesting the requirement for direct and immediate supervision appears to negate the opportunity for remote processing. He questioned the members as to their intent. Following considerable discussion, Mr. Indovina moved,

Resolved, with respect to the Guidance Document ~ Remote Processing by Pharmacy Personnel and Guidance Document ~ Flexible Staffing Ratios, the Board determined it appropriate to waive the element of 'on-site' from the requirement for direct and immediate supervision by a pharmacist, but only until the earliest of the following two dates: (1) the termination of the Governor's proclamation of the COVID-19 public health emergency or (2) September 30, 2020.

Following additional member discussion and public comment, the motion was adopted after a unanimous vote in the affirmative.

Mr. Aron directed staff to issue a revised guidance document relative to flexible staffing ratios changing only the requirement for on-site supervision for the time period approved by the Board.

- C. Requests for Waiver of Licensing for Nonresident Pharmacies & DME
(1) Morris Apothecary, LLC *d/b/a* Apotheco Pharmacy [Parsippany, NJ] requesting waiver of pharmacy permit requirements to ship medications to the state.

Mr. Aron directed the members to a copy of the request in their meeting packet. Mr. Broussard indicated the petitioner described their product line as dermatological products. Following brief discussion, Mr. McKay moved,

Resolved, to deny the request for a waiver from the pharmacy permit requirements from the petitioner.

There was no further member discussion or public comment. The motion was adopted after a unanimous vote in the affirmative. Mr. Aron directed staff to communicate the Board's reply to the petitioner and include an application for a nonresident pharmacy permit.

- (2) Expedite, LLC *d/b/a* Oxyensure, a subsidiary of ResMed, Inc. [Lithia Springs, GA] requesting one-year waiver from DME licensure requirements to ship respiratory devices with remote installation instructions.

Mr. Aron directed the members to a copy of the request in their meeting packet. Following a brief discussion, Mr. McKay moved,

Resolved, to deny the request for a waiver from the DME licensure requirements from the petitioner.

Following additional member discussion and no public comment, the motion was adopted after a unanimous vote in the affirmative. Mr. Aron directed staff to communicate the Board's reply to the petitioner and include an application for a DME permit.

- D. Requests from Educational Institutions for Simulation in lieu of Practical Experience Requirements for Program Completion

Mr. Aron directed the members to the staff memo in their meeting packet. He indicated staff had communicated with the institutions with suggestions to consult their accreditation organizations. The members agreed with that approach, indicating their reluctance to micromanage the educational process at this time.

- E. Petition for Modification of Previous Order

- (1) Case No. 20-0113 ~ PST.010643 ~ William Coleman Honeycutt

Mr. Aron directed the members to the relevant material in their meeting binder. Following a brief discussion, Mr. Moore moved,

Resolved, to remove Article 2-e from his February 2016 Board Order which had prevented him from accepting an appointment as the pharmacist-in-charge of a pharmacy; and further, all other restrictions shall remain in place for the remainder of the probationary period which is scheduled to

conclude on February 24, 2021.

With no further member discussion or public comment, the motion was adopted after a unanimous vote in the affirmative.

F. Consideration of Continuing Education Requirements for the Renewal of Pharmacy Technician Certificates for the Year 2020-2021 and for the Renewal of Pharmacist Licenses for Calendar Year 2021.

Mr. Aron directed the members to the staff memo in their meeting binder. Mr. Aron reminded the members that pharmacy technician renewal requirements include 10 hours of CE with no requirement for live CE. Pharmacists who do not obtain at least three hours of live CE are required to obtain at least 20 hours of CE instead of the usual 15 hours. Since live CE programs have been drastically reduced to only qualified webinar programs, the members believed it appropriate to not require any live CE for the next renewal. With respect to pharmacy technicians, the members had previously approved flexibility in the timing of their renewal cycles; they did not believe it appropriate to adjust any of the CE requirements at that time. Following a brief discussion, Mr. McKay moved,

Resolved, to waive the requirement for live continuing education credit for the renewal of pharmacist licenses, and further, to allow the acquisition of at least 15 hours of ACPE-accredited and pharmacist-specific continuing education to qualify for the renewal of a pharmacist license; however, this waiver and allowance shall be valid only for the renewal of a pharmacist license for Calendar Year 2021.

With no further member discussion or public comment, the motion was adopted after a unanimous vote in the affirmative.

G. Governor Proclamation No. 38 JBE 2020

Mr. Aron directed the members to a copy of the proclamation in their meeting binder. In particular, he drew their attention to Subsection 2.P relative to healthcare professional licensing boards. He and Mr. Broussard described their approach to compliance with that provision. The members expressed no questions or concerns.

5. New Agenda Items Added During Meeting

No new items were added to the agenda.

6. Opportunity for Public Comment

Mr. Aron solicited general public comments; there were none.

7. 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 5:55 p.m.

Respectfully submitted,

Richard M. Indovina, Jr.
Secretary