



Louisiana Board of Pharmacy
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Minutes

Administrative Hearing

Wednesday, November 18, 2020 at 8:30 a.m.

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Regular Board Meeting

Wednesday, November 18, 2020 at 10:00 a.m.

Location:

Embassy Suites Hotel
4914 Constitution Avenue
Baton Rouge, Louisiana 70808

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The Louisiana Board of Pharmacy convened an administrative hearing on Wednesday, November 18, 2020 at the Embassy Suites Hotel located at 4914 Constitution Avenue in Baton Rouge, Louisiana 70808. 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 public notice was properly posted.

A. Call to Order

In the absence of the Board President, First Vice President Marty McKay called the hearing to order at 8:35 a.m.

B. Invocation & Pledge

Mr. Kevin LaGrange delivered the invocation then Dr. Raymond Strong led the group in the Pledge of Allegiance.

C. Amendment to Board Roster

Mr. McKay informed the members and guests that Gov. Edwards had appointed a new member to the Board since the previous Board meeting. Mr. Troy Menard is a pharmacist who resides in the Covington area. He was appointed to complete the remainder of the unexpired term of a previous member; his term will expire on June 30, 2025. Mr. McKay welcomed Mr. Menard to the Board.

D. Quorum Call

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

Members Present:

Mr. Allen W. Cassidy, Jr.
Mr. David A. Darce
Ms. Jacqueline L. Hall
Mr. Richard M. Indovina, Jr.
Mr. Kevin LaGrange
Mr. Robert C. LeBas *Late arrival*
Mr. Richard Mannino *Late arrival*
Mr. Marty R. McKay
Mr. J. Troy Menard
Mr. Anthony G. Mercante
Mr. Blake P. Pitre
Mr. Don L. Resweber
Dr. Raymond J. Strong

Member Absent:

Mr. Carl W. Aron
Dr. J Robert Cloud
Mr. Douglas E. Robichaux
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
Mr. Benjamin S. Whaley, Chief Compliance Officer
Ms. Kelley L. Villeneuve, Office Manager

After doing so, Mr. Indovina certified Mr. Aron, Dr. Cloud, Mr. LeBas, Mr. Mannino, Mr. Robichaux, and Mr. Valentine were absent; however, the remaining 11 members were present, constituting a quorum for the conduct of official business. It was noted that Mr. LeBas arrived shortly thereafter at approximately 8:40 a.m. and Mr. Mannino arrived at approximately 8:50 a.m.

E. Call for Additional Agenda Items & Adoption of Agenda

Mr. McKay asked if there were any additional agenda items, and none were requested. With no objection, the Board adopted the posted agenda dated November 4, 2020.

F. Opportunity for Public Comment

Mr. McKay 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 general comments on non-agenda items from the guests present but none were offered.

Appearances

Mr. McKay indicated he would serve as the Hearing Officer. Mr. Carlos Finalet served as the Prosecuting Attorney and Mr. Malcolm Broussard served as the Hearing Clerk.

Mr. McKay informed the members the single case on the agenda originated with the Violations Committee, and the members of that committee in attendance at their December 2019 meeting were recused from the hearing. In particular, Dr. Cloud, Ms. Hall, Mr. Indovina, Mr. Robichaux, and Mr. Valentine were excused. He reminded the other members they should recuse themselves should the need arise.

Without objection, Mr. McKay 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 11-04-2020

- A. Call to Order
- B. Invocation & Pledge of Allegiance
- C. Amendment to Board Roster
- D. Quorum Call
- E. Call for Additional Agenda Items & Adoption of Agenda

- F. Opportunity for Public Comment
- * Appearances
- G. Formal Hearing
 - 1. Case No. 19-0207 ~ CPT.011002 – Markella Ann Wyre
- H. New Agenda Items Added During Meeting
- I. Adjourn

G. Formal Hearings

With Mr. McKay's approval, Mr. Finalet began the hearing by calling the case listed on the agenda.

Markella Ann Wyre (CPT.011002) Mr. Finalet appeared for the Board. The respondent, Markella Ann Wyre, did not appear and was not represented by counsel. Mr. Finalet informed the members he had checked the vicinity of the meeting room to confirm the respondent's absence. Mr. McKay ruled the hearing would proceed as noticed in the form of a default proceeding. Mr. Finalet offered an opening statement, presented no witnesses and five exhibits and then proffered proposed Findings of Fact, Conclusions of Law, and Board Order. Mr. Finalet tendered the matter to the hearing panel for its consideration. Mr. Darce moved to enter into executive session for the purpose of deliberating the disciplinary matter and discussing the respondent's professional competency and fitness for practice. There were no member questions or public comments. The motion for executive session was adopted after a unanimous roll call vote in the affirmative.

It was noted the hearing panel entered into executive session at 8:51 a.m. and then reconvened at 9:30 a.m. Mr. McKay returned the hearing panel to open session; he reported no decision was made during the executive session and questioned the members as to their disposition of the case.

Mr. Cassidy then moved,

Resolved, that the 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.

There were no member questions or public comments. The motion was adopted after a unanimous roll call vote in the affirmative. Mr. Cassidy then moved,

Resolved, that the 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.

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. Mr. Cassidy 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. 11002, held by Markella Ann Wyre, shall be, and is hereby suspended for an indefinite period of time 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 the 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 matters 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 addition medicine specialist approved by the Board at her own expense.

Prior to the vote, Mr. Mannino questioned the need for a medical evaluation and offered an amendment to remove the requirement for a medical evaluation relative to any future reinstatement application. There were no member questions or public comments on the proposed amendment. The motion for the amendment was adopted after a unanimous vote in the affirmative. As to the amended motion for the order, there were no further member questions or public comments. The amended motion for the order was adopted after a unanimous vote in the affirmative.

Mr. Finalet indicated completion of the single case scheduled for that day.

H. New Agenda Items Added During Meeting

There were no new agenda items added during the meeting.

I. Adjourn

Having completed the tasks itemized on the posted agenda, with no further business pending before the Board and without objection, Mr. McKay adjourned the hearing at 9:35 a.m.

* * * * *

The Louisiana Board of Pharmacy convened a regular meeting on Wednesday, November 18, 2020 at the Embassy Suites Hotel located at 4914 Constitution Avenue in Baton Rouge, Louisiana 70808. The meeting was held pursuant to public notice, each member received notice, and public notice was properly posted.

1. Call to Order

Mr. Marty McKay, First Vice President, called the meeting to order at 10:10 a.m.

2. Quorum Call

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

Members Present:

Mr. Allen W. Cassidy, Jr.
Mr. David A. Darce
Ms. Jacqueline L. Hall
Mr. Richard M. Indovina, Jr.
Mr. Kevin LaGrange
Mr. Robert C. LeBas
Mr. Richard Mannino
Mr. Marty R. McKay
Mr. J. Troy Menard
Mr. Anthony G. Mercante
Mr. Blake P. Pitre
Mr. Don L. Resweber
Dr. Raymond J. Strong

Member Absent:

Mr. Carl W. Aron
Dr. J Robert Cloud
Mr. Douglas E. Robichaux
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
Mr. Benjamin S. Whaley, Chief Compliance Officer
Ms. Kelley L. Villeneuve, Office Manager

Guests:

Mr. Richard Soileau
Ms Donna Soileau
Ms. Michele P. Alderman
Dr. Caitlin Bertrand – Genoa Pharmacy
Ms. Jessica Elliott – La. Retailers Association
Ms. Brandi Armand – La. Retailers Association

Ms. Juanita Pitre
Ms. Cathy McKay
Ms. Shelly Dupre – National Association of Chain Drug Stores (NACDS)

Mr. Indovina certified Mr. Aron, Dr. Cloud, Mr. Robichaux and Mr. Valentine were absent; however, the remaining 13 members were present, constituting a quorum for the conduct of official business.

3. Call for Additional Agenda Items & Adoption of Agenda

Mr. McKay asked if there were any additional agenda items to be added. Mr. Mannino moved to add a discussion of USP Chapter 800 to the agenda. He noted the Board had previously voted to implement enforcement of those federal standards on January 1, 2021. Since this was the last Board meeting prior to that implementation date and since the current public health emergency had interrupted some pharmacies activities to prepare for that implementation, he suggested the urgency for reconsideration of that previous decision. There were no further member or public comments. The motion to add the new agenda item was adopted after a unanimous roll call vote in the affirmative. Mr. McKay indicated he would call for that discussion at Agenda Item 11. There were no further requests to amend the agenda. Without objection, the members adopted the amended agenda dated November 16, 2020. Mr. McKay requested authority to re-order the agenda as may become necessary and there were no objections to that request.

4. Consideration of Draft Minutes from Previous Meeting

Mr. McKay reminded the members they had received the draft minutes from the Regular Board Meeting on August 13 held by videoconference. With no objections, he waived the reading of the draft minutes. With no requests for amendment or any objection to their approval, Mr. McKay declared the minutes were approved as presented. Mr. McKay reminded the members to sign the Minute Book.

6. Confirmation of Acts

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

Resolved, that the actions taken and decisions made by the Board officers, members and committees, and executive director in the general conduct and transactions of Board business since February 5, 2020 are approved, adopted, and ratified by the entire Board.

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative.

7. Opportunity for Public Comment

Mr. McKay 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; none were offered.

* *Statement of Purpose*

Mr. McKay 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 legislative mandate in mind as they considered all the matters before them.

8. *Special Orders of the Day*

A. *Presentation of Pharmacist Gold Certificate*

In recognition of her achievement of 50 years of licensure as a pharmacist, Mr. McKay presented a Pharmacist Gold Certificate to Ms. Michele Alderman who was licensed by the Board in August 1969. Ms. Alderman also served a six-year term as a member of the Board from 2004 to 2010. The members and guests congratulated her with a standing ovation.

B. *Presentation of Distinguished Service Awards*

Mr. McKay called upon Mr. Broussard to present the awards. Mr. Broussard explained the awards were being presented to board members who had completed their terms of service to the Board in June 2020. Five members completed their terms and three of them were present to receive their awards; the awards for the other two members will be presented at a future meeting.

- Mr. Richard “Andy” Soileau served two terms, from July 2008 to June 2020;
- Ms. Jackie Hall began her service in August 2002 and was re-appointed to another six-year term concluding in 2026; and
- Mr. Marty McKay began his service in January 2000 and was re-appointed to another six-year term concluding in 2026.

C. *Annual Election of Board Officers*

Mr. McKay reminded the members and guests of the annual election of officers usually conducted at the final meeting of the calendar year. He indicated he would conduct elections for each of the five officer positions in rank order, with the newly-elected officer assuming their position immediately. Mr. Don Resweber nominated the entire slate of current officers in their same positions as well as Mr. Valentine for the office of Third Vice President. Mr. Mannino nominated Mr. LaGrange for the office of Third Vice President. After confirming no additional nominations, Mr. McKay indicated he would conduct the election first for the only contested position, that of Third Vice President. Following a roll call vote, Mr. Valentine was elected by a majority of the members present and voting. Dr. Strong moved to re-elect, by acclamation, the current slate of officers in their same positions. With no member or public comments offered, the motion was adopted after a unanimous vote in the affirmative. The following members were elected or re-elected to officer positions:

- Mr. Carl Aron – President

- Mr. Marty McKay – First Vice President
 - Ms. Jacqueline Hall – Second Vice President
 - Mr. Rhonny Valentine – Third Vice President
 - Mr. Richard Indovina – Secretary
- Mr. McKay congratulated all of the officers.

5. *Report on Action Items*

Mr. McKay called on Mr. Broussard for the report. Mr. Broussard directed the members to a copy of the report in their meeting binder. There were no questions from the members or guests.

9. *Committee Reports*

A. *Finance Committee*

Mr. McKay indicated he would present the committee report on behalf of the committee chair, Mr. Pitre. He reviewed the *Interim Report for Fiscal Year 2020-2021*, noting it was informational and did not require Board action. There were no member questions or public comments. He then directed the members to the *Proposed Budget for Fiscal Year 2021-2022* in their meeting binder. He reported the committee reviewed the budget developed by staff, did not make any changes and voted to recommend its approval. He also reported the committee requested staff to investigate the feasibility of implementing a credit card convenience fee for online transactions, noting the cost to the Board for that service is approximately \$60,000 per year. Mr. Pitre then moved,

Resolved, to approve and adopt the *Proposed Budget for Fiscal Year 2021-2022*.

Prior to the vote, Mr. Indovina questioned the revenue line items relative to credential renewals, noting the budget appeared to reflect a return to pre-pandemic levels. Mr. Broussard confirmed the legislative resolution as well as the Board's emergency rule limit the waivers of credential renewal fees for existing businesses in the current fiscal year, and further, there was no direction from the legislature for such waivers for the fiscal year covered by the proposed budget. He reminded the members in the event of any future legislative direction to extend such waivers the Board routinely reviews budget amendments during the first Board meeting of the new fiscal year, typically in August. There were no further member questions or public comments. The motion was adopted after a unanimous vote in the affirmative.

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

B. *Application Review Committee*

In the absence of Mr. Robichaux, the committee chair, Mr. McKay called upon the ranking member, Mr. Indovina, to deliver the committee report. Mr. Indovina reported the committee met the previous day to consider one referral from staff, an applicant for a telepharmacy dispensing site permit which had requested a waiver from the Board's rule relative to the 15-mile

exclusion zone around the intended location of the dispensing site. Following the committee's interview and deliberations, Mr. Indovina reported the committee voted to recommend the approval of the request for the waiver and the issuance of the permit. He then moved,

Resolved, to approve the request from Genoa Pharmacy for a waiver from the 15-mile exclusion zone in the Board's rules for telepharmacy dispensing site and to authorize staff to issue the telepharmacy dispensing site permit, but to limit the telepharmacy dispensing to patients of the Acadiana Crowley Mental Health Clinic in Crowley, Louisiana, within which the telepharmacy dispensing site will be located.

Mr. McKay responded to questions from members; there were no public comments. The motion was adopted after a unanimous vote in the affirmative.

C. Reciprocity Committee

Mr. McKay called upon Mr. Cassidy for the committee report. He reported the staff had evaluated 77 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. Mr. Cassidy then directed the members to a list of the new pharmacists licensed by reciprocity in their meeting binder.

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

D. Violations Committee

Mr. McKay called upon Mr. Indovina for the committee report. Mr. Indovina reported the committee met on October 21 to consider the 22 cases on their docket. As committee chair, he authorized continuances of four of the cases prior to the committee meeting. Following their interviews and deliberations, the committee took no action against two of the respondents and issued non-disciplinary Letters of Noncompliance to four of the respondents. The committee authorized the automatic reinstatement of a suspended pharmacist license back to probationary status contingent upon the successful completion of an anger management course, and further, ordered an emergency summary suspension of the license of a pharmacist who had violated his probationary terms. The committee then offered proposed voluntary consent agreements to the remaining 10 respondents. Mr. Indovina reported eight of the respondents had accepted their proposed agreements; the two respondents who had not accepted their proposed agreements were scheduled for a future administrative hearing. Mr. Indovina then presented the following agreements to the members for their consideration.

Louisiana CVS Pharmacy, LLC d/b/a CVS Pharmacy No. 4068 [Haughton, LA] (PHY.005771): Mr. Indovina moved to approve the

proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board assessed a fine of \$10,000 plus administrative and investigative costs.

Louisiana CVS Pharmacy, LLC d/b/a CVS Pharmacy No. 16801 [Monroe, LA] (PHY.007241): Mr. Indovina moved to approve the proposed voluntary consent agreement. He answered a question from one member. There were no further member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board assessed a fine of \$2,500 plus administrative and investigative costs.

Louisiana CVS Pharmacy, LLC d/b/a CVS Pharmacy No. 5521 [West Monroe, LA] (PHY.005777): Mr. Indovina moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board assessed a fine of \$2,500 plus administrative and investigative costs.

Walgreen La. Co., Inc. d/b/a Walgreen Pharmacy No. 6190 [Hammond, LA] (PHY.004710): Mr. Indovina moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board assessed a fine of \$2,500 plus administrative and investigative costs.

Josie Ann Foster (PTC.026539): Mr. Indovina moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board issued a Letter of Reprimand; and further, assessed administrative costs.

Hajira Ebady (PST.020956): Mr. Indovina moved to approve the proposed voluntary consent agreement. Mr. Finalet replied to a question from one member. There were no further member questions or public comments. 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.

Institutional Pharmacies of Louisiana, LLC d/b/a Institutional Pharmacies of Louisiana [Scott, LA] (PHY.005169): Mr. Indovina moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board assessed a fine of \$45,000 plus administrative and investigative costs.

Barry John Dupre (PST.014468): Mr. Indovina moved to approve the proposed voluntary consent agreement. There were no member questions or

public comments. The motion was adopted after a unanimous vote in the affirmative. The Board suspended the license for one year and stayed the execution of the suspension, then placed the license on probation for one year effective November 18, 2020 subject to certain terms enumerated within the voluntary consent agreement; and further, assessed administrative costs.

Mr. Indovina directed the members to the complaint investigation policy monitor report in their meeting binder. He informed the members there were 182 open cases at the beginning of the fiscal year, 146 new cases added since then and 149 cases closed, leaving 179 open cases as of November 6. Of the 149 case closures, he reported the average number of days to complete the investigation was 43, and that 3 of those 179 cases (2%) had exceeded the policy benchmark of 180 days. He reminded the members the most common reason for an investigation to exceed the 180-day threshold was a collaborative investigation with other state or federal agencies and that another reason for a nonresident case would be a nonresident case on appeal.

Mr. Indovina reported the committee's next meeting was scheduled for December 15 to consider the 19 cases on that docket. He closed his report with appreciation to the other committee members for their ongoing work.

E. Impairment Committee

Mr. McKay called upon Ms. Hall for the committee report. Ms. Hall reported the committee met the previous day to consider nine referrals from the staff – four requests for reinstatement, three requests for modification of previous orders, one application for a new pharmacy technician candidate registration and one case for informal conference. Following their interviews of the applicants and subsequent deliberations, the applicant for a new pharmacy technician candidate registration withdrew her application in lieu of a denial of that application. Ms. Hall then presented the following recommendations to the members for their consideration.

Johana Berenice Doucet (CPT.011781): Ms. Hall moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board granted the request for reinstatement of the previously lapsed certificate, suspended the certificate for five years and stayed the execution of the suspension, then placed the certificate on probation for five years effective November 18, 2020 subject to certain terms enumerated within the voluntary consent agreement.

Kimiko Tiesha Austin (CPT.005676): Ms. Hall moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board granted the request for reinstatement of the previously lapsed certificate, suspended the certificate for ten years and stayed the execution of the suspension, then placed the certificate on

probation for ten years effective November 18, 2020 subject to certain terms enumerated within the voluntary consent agreement.

Lisa Kay Moreau (PST.014955): Ms. Hall moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board granted the request for release from the previously executed no-practice agreement, suspended the license for five years and stayed the execution of the suspension, then placed the license on probation for five years effective November 18, 2020 subject to certain terms enumerated within the voluntary consent agreement.

Amber Mone Loup (PST.018248): Ms. Hall moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board granted the 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 November 18, 2020 subject to certain terms enumerated within the voluntary consent agreement.

Catherine Rose Freeman (PST.020613) Ms. Hall moved to approve the request for modification of previous orders. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board granted her request for modification of previous orders, removed all probationary terms from her March 2018 Probation Board Order, terminated the probationary period originally scheduled to conclude on March 21, 2023 and then restored the license to active and unrestricted status.

Nancy Lynn Odom (PST.014796) Ms. Hall moved to approve the request for modification of previous orders. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board granted her request for modification of previous orders, then removed Article 3-f from her November 2018 Probation Board Order which had prevented her from accepting an appointment as the pharmacist-in-charge of a pharmacy; and further, reiterated all other probationary terms shall remain in effect for the remainder of the probationary period.

Amanda Schubert Balli (PST.019454) Ms. Hall moved to approve the request for modification of previous orders. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board granted her request for modification of previous orders, removed all probationary terms from her November 2017 Probation Board Order, terminated the probationary period originally

scheduled to conclude on November 15, 2022 and then restored the license to active and unrestricted status.

Brigid Grace Himel (PST.013209): Ms. Hall moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board suspended the license for two years and stayed the execution of the suspension, then placed the license on probation for two years effective November 18, 2020 subject to certain terms enumerated within the voluntary consent agreement.

Finally, Ms. Hall closed her report with appreciation to her fellow committee members for their work the previous day.

F. Reinstatement Committee

In the absence of Mr. Valentine, the committee chair, Mr. McKay called upon the ranking member, Mr. Resweber, to deliver the committee report. Mr. Resweber reported the committee met the previous day to consider three referrals from the staff – all petitions for reinstatement of lapsed technician certificates. The committee interviewed all three applicants and developed recommendations for the Board’s consideration, which Mr. Resweber then presented to the members.

Tamara Lynn Bourg (CPT.004979): Mr. Resweber moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board granted the applicant’s request for reinstatement of the lapsed certificate contingent upon the satisfaction of certain requirements identified within the voluntary consent agreement prior to November 18, 2022.

Delana Rae Heltz (CPT.009588): Mr. Resweber moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board granted the applicant’s request for reinstatement of the lapsed certificate contingent upon the satisfaction of certain requirements identified within the voluntary consent agreement prior to November 18, 2022.

Jaime Lynn Blanchard (CPT.001387): Mr. Resweber moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board granted the applicant’s request for reinstatement of the lapsed certificate contingent upon the satisfaction of certain requirements identified within the voluntary consent agreement prior to November 18, 2022.

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

G. *Tripartite Committee*

Mr. McKay called upon Mr. Resweber for the committee report. Mr. Resweber reported the committee had not met since the previous Board meeting.

H. *Regulation Revision Committee*

Mr. McKay indicated the committee had not met since the previous Board meeting; however, he indicated the committee would probably meet in both December and January.

At this point, Mr. McKay declared a luncheon recess. He placed the Board in recess at 11:20 am. The members reconvened at 12:15 pm. Mr. McKay resumed the sequence of the posted agenda.

I. *Executive Committee*

Mr. McKay reported the committee had met the previous day to consider the items on their posted agenda. He indicated Ms. Hall was prepared to offer motions on behalf of the committee.

- *Consideration of Interim Policies*

Mr. McKay reminded the members of the various interim policies issued by the Board since the beginning of the public health emergency. The committee reviewed a comprehensive listing of those policies, noting some of them were no longer necessary, some had been replaced by permanent rules, and some were still necessary. The committee voted to continue other interim policies until a later date. Ms. Hall then moved, **Resolved**, to approve the November 2020 Review of Interim Policies.

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative.

- *Consideration of Proposed New Policy re Cybersecurity Awareness*

Mr. McKay reported the adoption of a new law by the 2020 Legislature mandating training on cybersecurity awareness by state employees and other persons with access to state agency information systems. The committee voted to recommend the approval of the new policy. Ms. Hall then moved,

Resolved, to approve the proposed new policy entitled *PPM.II.D.1.g ~ Cybersecurity Awareness*.

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative.

- *Consideration of Proposed Revision of Record Retention Policy*

Mr. McKay reminded the members of their adoption of a preliminary policy on this topic earlier in the year. Staff submitted that policy to the State Archives which responded with approval pending acceptance of proposed revisions. The committee voted to recommend the approval of

the proposed revisions. Ms. Hall then moved,

Resolved, to approve the proposed revisions of
PPM.II.D.2.a ~ Record Retention Schedule.

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative.

- *Consideration of Proposed Revision of Criminal Background Check Policy*

Mr. McKay reported the federal FBI had requested some clarity in the Board's policy for criminal background check (CBC) documents relative to their record retention. The committee voted to recommend the approval of the proposed revision. Ms. Hall then moved,

Resolved, to approve the proposed revision of *PPM.III.J ~ Criminal Background Checks.*

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative.

- *Consideration of Proposed Revision of Facility Inspection Policy*

Mr. McKay reported staff had requested some latitude in the frequency of inspections for durable medical equipment (DME) permits. The committee voted to recommend the approval of the proposed revision to that policy. Ms. Hall then moved,

Resolved, to approve the proposed revision of *PPM.IV.B.2.0 ~ Facility Inspections – Service Reviews.*

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative.

- *Consideration of Proposed Statement on Dispensing Prescriptions for Cannabidiol (Epidiolex®)*

Mr. McKay reminded the members the federal government had placed cannabidiol into Schedule V of the federal list of controlled substances when the product Epidiolex® was introduced to the market in 2018 and that Louisiana made the same decision legislatively. Although the federal government had recently de-listed the drug, the Louisiana Legislature will not have the opportunity to de-list the drug until the next legislative session. The committee voted to recommend the approval of a statement announcing enforcement discretion for pharmacists dispensing the drug as a non-controlled substance. Ms. Hall then moved,

Resolved, to approve the proposed *Statement on Dispensing Prescriptions for Cannabidiol (Epidiolex®).*

Mr. McKay responded to a question from one member and one guest. The motion was adopted after a unanimous vote in the affirmative.

- *Review of Financial Audit Report from Legislative Auditor*

Mr. McKay reminded the members of the annual financial audit by the legislative auditor. He reported receipt of the audit report which indicated the Board's June 30, 2020 financial statement was an accurate representation of the Board's fiscal status, and further, the audit report

contained no findings or recommendations. He indicated the committee reviewed the report and had no recommendations for the staff. He directed the members to a copy of the audit report in their meeting binder and invited member comments or recommendations. None were offered.

- *Review of Legislation from 2nd Special Session of 2020 Legislature*

Mr. McKay reported the committee reviewed the legislative brief prepared by staff and noted one item requiring action by the Board. In particular, Senate Resolution requests the Board to study and make recommendations to the legislature no later than March 1, 2021 relative to two topics: (1) an update on the status of collaborative drug therapy management program; and (2) a determination of the desirability and feasibility of a written statewide protocol for pharmacists to test or screen for and initiate treatment or therapy for qualified health conditions.

Mr. McKay reported that Board President Carl Aron had already referred the matter to the Regulation Revision Committee. Given the short deadline for the report to the legislature, Mr. McKay reported the committee would meet in both December and January and have a recommendation for the full Board to consider during its next meeting scheduled for February 24, 2021.

- *Transition to Virtual Credentials*

Mr. McKay reminded the members that some of the Board's credentials already exist only in virtual form, meaning no paper form exists. In addition, the committee had already approved the transition of two credentials to virtual status in January 2021 – pharmacy intern registration and pharmacy technician candidate registration. With a projected loss of \$300,000 credential renewal fees in the current fiscal year, the committee voted to recommend the approval of a staff proposal to expedite the transition of all credentials to virtual status as soon as possible. Ms. Hall then moved,

Resolved, to authorize staff to transition all of its credentials to a virtual format as soon as possible.

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative.

Finally, Mr. McKay closed his report with appreciation to the other committee members for their ongoing work.

10. *Staff Reports*

J. *Report of Assistant Executive Director*

Mr. McKay called upon Mr. Fontenot for his report. He directed the members to the quarterly report of the prescription monitoring program, detailing the prescription transaction counts as well as queries from prescribers, dispensers, and law enforcement agencies. The report also included information on the dispensing of medical cannabis products in the marijuana pharmacies. Mr. Fontenot reported on the implementation of a

new federal law which authorizes practitioners affiliated with the federal Veterans Administration to have access to state-based prescription monitoring programs, and further, pre-empts any contrary state laws. He answered two questions from Mr. McKay.

Mr. Fontenot then directed the members to the requests from 20 pharmacies seeking a waiver from the duty to report zero prescription transaction reports to the prescription monitoring program. Mr. Indovina then moved,

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

- > PHY.008138-NR – Alphascript (CA);
 - > PHY.008125-NR – AnnovoRx Group (TN);
 - > PHY.008093-NR – Deliverit Pharmacy (TX);
 - > PHY.004214-HOS – East Jefferson General Hospital (LA);
 - > PHY.008114-NR – Foothills Professional Pharmacy (AZ);
 - > PHY.007904-NR – HomeCare Rx(NJ);
 - > PHY.008152-NR – Nephron Pharmacy (SC);
 - > PHY.008091-HOS – Ochsner LSU Health Shreveport – St. Mary Medical Center (LA);
 - > PHY.008101-HOS – Ochsner St. Mary (LA)
 - > PHY.008100-HOS – Our Lady of Lourdes Heart Hospital (LA);
 - > PHY.008145-NR – PipelineRx (NV);
 - > PHY.008147-NR – PipelineRx (CO);
 - > PHY.008146-NR – ProLab Pharmacy (TX);
 - > PHY.007200-NR – Red Chip of Nevada (CA);
 - > PHY.008116-NR – Rite Care Pharmacy IV (TX);
 - > PHY.006122-HOS – Sabine Medical Center (LA);
 - > PHY.008133-NR – Scripts Rx Pharmacy (TX);
 - > PHY.008102-NR – Truepill NY (NY);
 - > PHY.008126-NR – Vivo Health Pharmacy at Home (NY); and
 - > PHY.001198-HOS – West Feliciana Parish Hospital (LA)
- once they have executed the standard consent agreement for that purpose.

Mr. Broussard replied to a question from one member. There were no further member questions or public comments. The motion was adopted after a unanimous vote in the affirmative.

Mr. Fontenot reported the program was functioning well. He reminded the members of the legislative auditor recommendation to audit pharmacies to ensure their reporting of all eligible transactions, and he reported that all of the compliance officers were now performing such audits during their routine inspections of the pharmacies

Mr. Broussard replied to a question from one member about the medical cannabis dispensing report, explaining the use of patient zip codes in lieu of other parameters which could be used to identify the dispensing pharmacy. He reminded the members of the requirement to de-identify all PMP information prior to public release, and that the name of the dispensing pharmacy is included in the de-identification requirement.

Finally, Mr. Fontenot indicated completion of his report.

K. Report of General Counsel

Mr. Aron called upon Mr. Finalet for his report. Mr. Finalet presented the following proposed voluntary consent agreements to the members for their consideration.

DeShontae Sharae Mouton (CPT.013508): Ms. Hall moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board issued a Letter of Reprimand, and further, assessed a fine of \$250 plus administrative costs.

LaDonna Denise Wellman (CPT.010980): Ms. Hall moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board issued a Letter of Reprimand, and further, assessed a fine of \$250 plus administrative costs.

Faljaray Tiara Lewis (CPT.012886): Ms. Hall moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board issued a Letter of Reprimand, and further, assessed a fine of \$250 plus administrative costs.

Cheryl Tough Alexander (CPT.015010): Ms. Hall moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board issued a Letter of Reprimand, and further, assessed a fine of \$250 plus administrative costs.

LaQuita Nicole Garner (CPT.014004): Ms. Hall moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board issued a Letter of Reprimand, and further, assessed a fine of \$250 plus administrative costs.

Raveen Symone Williams (CPT.010288): Ms. Hall moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board issued a Letter of Reprimand, and further, assessed a fine of \$250 plus administrative costs.

AMSR, LLC d/b/a American Medical Sales & Rental [Centennial, CO] (DME.000956): Ms. Hall moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board

issued a Letter of Reprimand, and further, assessed a fine of \$2,500 plus administrative costs.

Bet Pharm, LLC d/b/a Bet Pharm [Lexington, KY] (PHY.005646): Ms. Hall moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board suspended the permit for 4 years plus 8 months plus 18 days and stayed the execution of the suspension, then placed the permit on probation for 4 years plus 8 months plus 18 days effective November 18, 2020 and terminating August 5, 2025 subject to certain terms enumerated within the voluntary consent agreement, noting the probationary period runs concurrently with the probationary period imposed on its resident state permit by the Kentucky Board of Pharmacy; and further, assessed administrative costs.

Pensacola Apothecary, Inc. d/b/a Everwell Specialty Pharmacy [Pensacola, FL] (PHY.007114): Ms. Hall moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board suspended the permit for 7 months plus 26 days and stayed the execution of the suspension, then placed the permit on probation for 7 months plus 26 days effective November 18, 2020 and terminating July 28, 2021 subject to certain terms enumerated within the voluntary consent agreement, noting the probationary period runs concurrently with the probationary period imposed on its resident state permit by the Florida Board of Pharmacy; and further, assessed administrative costs.

Donna Jaye Durham (CPT.015154): Ms. Hall moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board revoked the certificate effective October 2, 2020, and further, permanently prohibited the acceptance of any future application for the reinstatement of the certificate or any application for any other credential issued by the Board.

Seth Herbert DePasquale (PST.020915): Ms. Hall moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board suspended the license for 4 years plus 8 months plus 18 days and stayed the execution of the suspension, then placed the license on probation for 4 years plus 8 months plus 18 days effective November 18, 2020 and terminating August 5, 2025 subject to certain terms enumerated within the voluntary consent agreement, noting the probationary period runs concurrently with the probationary period imposed on his Kentucky pharmacist license by the Kentucky Board of Pharmacy; and further, assessed administrative costs.

Jackie Renee Briskin (CPT.015149): Ms. Hall moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board issued a Letter of Reprimand, and further, assessed a fine of \$250 plus administrative costs.

Janet Duplantis Tauzin (CPT.011789): Ms. Hall moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board issued a Letter of Reprimand, and further, assessed a fine of \$250 plus administrative costs.

CareDirect Rx, LLC d/b/a CareDirect Rx [Alabaster, AL] (PHY.006605): Ms. Hall moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board issued a Letter of Reprimand, and further, assessed a fine of \$5,000 plus administrative costs.

Cynthia Willis Calvert (PST.014177): Ms. Hall moved to accept the voluntary surrender of the credential. There were no member questions or public comments. 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 November 9, 2020.

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

L. Report of Executive Director

Mr. Aron called upon Mr. Broussard for his report. Mr. Broussard directed the members to his report in the meeting binder. He reviewed the following topics:

- Meeting Activity
- Reports
 - Internal Reports
 - Credentials Division
 - Census Report
 - Licensure Activity Report
 - Application Activity Report
 - Exceptions Report
 - Compliance Division
 - Census Report
 - Complaint Investigation Policy Monitor
 - External Reports
 - Board Reports to Administrative and Legislative Agencies
- Examinations
 - MPJE

NAPLEX
ExCPT
PTCE

- Operations
 - Credentials Division
 - Compliance Division
 - Administrative Division
 - Marijuana Pharmacies
- State Activities
 - 2nd Extraordinary Session of 2020 Legislature
- Regional & 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)
 - dotPharmacy Verified Websites Program

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

11. New Agenda Items Added During Meeting

Mr. McKay reminder the members of the new agenda item added at the beginning of the meeting, relative to the reconsideration of its May 2019 decision to implement enforcement in January 2021 of the federal standards for the handling of hazardous drugs in healthcare facilities, found in Chapter 800 of the United States Pharmacopoeia.

Mr. Mannino suggested that pharmacies which were preparing for those new federal standards had been interrupted by their need to respond to the current public health emergency. He suggested the Board should further extend the implementation of enforcement of those standards. He then moved,

Resolved, to (1) delay the previously announced January 1, 2021 enforcement date of the federal standards contained in USP Chapter <800> *Hazardous Drug – Handling in Healthcare Settings* to a future date not yet determined; (2) request the Regulation Revision Committee develop a regulatory proposal on this topic for the Board’s consideration; (3) delay enforcement of any promulgated rule on this topic for one year after the effective date of the rule; and (4) direct staff to utilize the educational approach when inspecting pharmacies handling hazardous drugs during their first year of enforcement of the new rule.

Mr. McKay and Mr. Broussard replied to questions from members. There were no public comments. The motion was adopted after a unanimous vote in the affirmative.

12. Announcements

Mr. McKay directed the members to the announcements in their meeting binder, in particular the proposed board meeting schedule for Calendar Year 2021. Mr. Resweber requested consideration of a different date for May 2021. Mr. Broussard reported he

would consult the master calendar in the Board office for an alternative and report back to the members.

13. Adjourn

Having completed the tasks itemized on the posted agenda, with no further business pending before the Board and without objection, Mr. McKay adjourned the meeting at 1:21 p.m.

Minutes prepared by Malcolm Broussard.

These minutes were approved by the Board during their subsequent meeting on February 24, 2021.

Richard M. Indovina, Jr.
Secretary