



Louisiana Board of Pharmacy
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Minutes

Regular Board Meeting Wednesday, May 26, 2021 at 8:00 a.m.

&

Administrative Hearing Wednesday, May 26, 2021 at 1:00 p.m.

Location: Embassy Suites Hotel
4914 Constitution Avenue
Baton Rouge, Louisiana 70808

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The Louisiana Board of Pharmacy convened a regular meeting on Wednesday, May 26, 2021 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. Carl Aron, President, called the meeting to order at 8:00 a.m.

2. Invocation & Pledge of Allegiance

Mr. Rhonny Valentine delivered the invocation and Mr. Troy Menard led the group in the Pledge of Allegiance.

3. 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
Mr. David A. Darce
Ms. Jacqueline L. Hall
Mr. Richard M. Indovina, Jr.
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
Mr. Douglas E. Robichaux
Dr. Raymond J. Strong
Mr. Rhonny K. Valentine

Member Absent:

Mr. Kevin LaGrange

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. Ryan Dartez – Award recipient

Mr. Ronald Moore – Award recipient
Mr. Ben Sims – Brookshire Grocery Co.
Mr. Chad Bodin – Neighbors Pharmacy
Ms. Grace Tate – La. Pharmacists Association
Ms. Hannah Wilson – La. Independent Pharmacies Association
Dr. John Rocchio – CVS Health
Sen. Ronnie Johns – Louisiana Legislature

Mr. Indovina certified Mr. LaGrange was absent; however, the remaining 16 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 to be added; none were requested. Without objection, the members adopted the posted agenda dated May 23, 2021. There were no objections to Mr. Aron's request for authority to re-order the agenda should he determine it appropriate to do so.

5. Consideration of Draft Minutes from Previous Meeting

Mr. Aron reminded the members they had received the draft minutes from the Regular Board Meeting on February 24 held by videoconference. With no objections, he waived the reading of the draft minutes. Ms. Hall noted an incorrect name in the report from the executive director. With no other corrections or any objection to their approval, Mr. Aron declared the minutes were approved as corrected.

6. Report on Action Items

Mr. Aron called upon Mr. Broussard for the report. Mr. Broussard directed the members to the report in their 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 their last physical meeting in accordance with policies and procedures previously approved by the Board, Mr. McKay 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 November 18, 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.

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

9. *Special Orders of the Day*

A. *Presentation of Senate Resolution No. 96 from 2021 Legislature*

Mr. Aron recognized Senator Ronald S. Johns from the Louisiana Legislature, who presented Mr. Aron with a copy of Senate Resolution No. 96 which was adopted by the Louisiana Senate on May 17, 2021. The full text of the resolution follows:

2021 Regular Session
SENATE RESOLUTION NO. 96
BY SENATORS JOHNS AND FRED MILLS

COMMENDATIONS. Commends Carl W. Aron on fifty years of service to the Louisiana Board of Pharmacy.

A RESOLUTION

To commend Carl W. Aron on fifty years of service to the Louisiana Board of Pharmacy.

WHEREAS, Carl W. Aron has been licensed as a pharmacist by the Louisiana Board of Pharmacy since 1962; and

WHEREAS, Carl W. Aron joined the family business in 1968, took ownership of the family business in 1971, and to the present date, continues to operate Aron's Pharmacy in Monroe, Louisiana; and

WHEREAS, Carl W. Aron was first appointed to the Louisiana Board of Pharmacy on April 8, 1971, by the Honorable John J. McKeithen, Governor of Louisiana, and has served on the board continuously since his first appointment in 1971; and

WHEREAS, in 1997, Carl W. Aron was first elected as president of the Louisiana Board of Pharmacy by his fellow board members, and he has been re-elected as president every year since 1997; and

WHEREAS, Carl W. Aron has received numerous awards for his service to the profession of pharmacy, including the Bowl of Hygeia Award for Community Service from the Louisiana Pharmacists Association in 1985 and the Meritorious Achievement Award from the College of Pharmacy at Northeast Louisiana University, now the University of Louisiana Monroe, in 1989; and

WHEREAS, the Louisiana Board of Pharmacy is a member of the National Association of Boards of Pharmacy (NABP); Mr. Aron has been an active member of the NABP and has received numerous recognitions and awards from the NABP; Mr. Aron has ensured that NABP's pharmacist licensure examinations remain valid and effective through his service on their Advisory Committee on Examinations from 1999 through 2005, including service as committee chairman in 2004; NABP recognized the Louisiana Board of Pharmacy's activities in the aftermath of Hurricanes Katrina and Rita in 2005 under Mr. Aron's leadership; and during its 2006 annual meeting, NABP presented the Fred T. Mahaffey Award for outstanding contributions to the regulation of the practice of pharmacy to the Louisiana Board of Pharmacy; and

WHEREAS, at the 2006 annual meeting, NABP presented its highest honor, the Lester E. Hosto Distinguished Service Award, to Mr. Aron; and

WHEREAS, Mr. Aron served as chairman of the NABP Task Force on Emergency Preparedness, Response, and the United State Drug Distribution System in 2007; and

WHEREAS, during its 2013 annual meeting, NABP selected Mr. Aron as its honorary president; and

WHEREAS, the Louisiana Board of Pharmacy under the leadership of Mr. Aron has developed and implemented the prescription monitoring program.

THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana does hereby commend and congratulate Carl W. Aron on fifty years of service to the Louisiana Board of Pharmacy.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to Carl W. Aron.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Sharon F. Lyles.

DIGEST

SR 96 Original

2021 Regular Session

Johns

Commends Carl W. Aron on 50 years of service to the Louisiana Board of Pharmacy.

The members and guests present congratulated Mr. Aron with a standing ovation.

B. *Presentation of Distinguished Service Awards*

Mr. Aron recognized two pharmacists in the audience who had previously served as members of the Board. In particular:

Mr. Ryan M. Dartez was appointed to the Board by Gov. Bobby Jindal in

2010, and he concluded his term in 2016. During that time, Mr. Dartez served as a member of the Finance, Reciprocity, Regulation Revision, Reinstatement, and Tripartite Committees.

Mr. Ronald E. Moore was appointed to the Board by Gov. Bobby Jindal in 2008 and again in 2014; he concluded his second term in 2020. During that time, he served as a member of the Impairment, Reciprocity, and Regulation Revision Committees as well as chair of the Reinstatement and Tripartite Committees.

Mr. Aron presented Distinguished Service Awards to Mr. Dartez and Mr. Moore. The members and guests present congratulated them with standing ovations.

Mr. Carl W. Aron was appointed to the Board by Gov. John McKeithen in 1971 and has been reappointed by multiple governors continuously since then. The National Association of Boards of Pharmacy has confirmed no other state board of pharmacy has ever had a member who has served for 50 continuous years.

Mr. McKay presented the Distinguished Service Award to Mr. Aron. The members and guests present congratulated him with a standing ovation.

10. *Committee Reports*

A. *Finance Committee*

Mr. Aron called upon Mr. Resweber for the committee report. Mr. Resweber reviewed the *Interim Report for Fiscal Year 2021-2022*, noting it was informational and did not require Board action. Ms. Hall requested correction of an incorrect header in one of the columns in the report. As requested by Mr. Aron, Mr. Broussard reported the origin of the Other Post-Employment Benefits (OPEB) liability and matching reserves; he also reviewed the similar pension liability and its associated reserves. There were no further member questions or public comments.

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

B. *Application Review Committee*

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

C. *Reciprocity Committee*

Mr. Aron called upon Mr. Cassidy for the committee report. He reported the staff had evaluated 55 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. Aron called upon Mr. Indovina for the committee report. Mr. Indovina reported the committee met on March 17 to consider the seven cases on their docket. Following their interviews and deliberations, the committee offered proposed voluntary consent agreements to all of the respondents. Two of the respondents did not accept the proposals and were scheduled for a future administrative hearing. Mr. Indovina then presented the following agreements to the members for their consideration.

DMD Ventures, LLC d/b/a NOLA Discount Pharmacy #2 [Metairie, LA] (PHY.007194): 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 a fine of \$5,000 plus administrative and investigative costs.

Kristel Lynn Maes (PST.019520): 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 a fine of \$500 plus administrative costs.

Joshua Shabazz Higgins (PTC.027749): 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 revoked the registration, and further, permanently prohibited the acceptance of any future application for any credential issued by the Board.

Jennifer Dawn Tucker (CPT.005080): 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 accepted the voluntary surrender of the credential, resulting in the active suspension of the certificate for an indefinite period of time effective March 17, 2021.

Brianna Courtney Bertrand (CPT.012104): 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 a fine of \$250 plus 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, 370 new cases added

since then and 398 cases closed, leaving 154 open cases as of May 16, 2021. Of the 398 case closures, he reported the average number of days to complete the investigation was 40, and that 13 of those 398 cases (3.3%) 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 June 9 to consider the 17 cases on that docket. He closed his report with appreciation to the other committee members for their ongoing work.

E. Impairment Committee

Mr. Aron called upon Ms. Hall for the committee report. Ms. Hall reported the committee met the previous day to consider 10 referrals from the staff – six requests for reinstatement, three requests for modification of previous orders, and one application for a new pharmacy technician candidate registration. Following their interviews of the applicants and subsequent deliberations, the committee deferred three of the reinstatement applications for additional information. Ms. Hall then presented the following recommendations to the members for their consideration.

Patience Viator Bergeron (PST.019238): 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 to a term of five years and stayed the execution of the suspension, then placed the license on probation for five years effective May 26, 2021 subject to certain terms enumerated within the voluntary consent agreement.

John Scott Soileau (PST.014858): 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, conditioned upon his completion of the following requirements prior to May 26, 2023: (1) acquisition of at least 1,000 hours of supervised practice under the authority of a Special Work Permit, and (2) submission of a letter of competency from the supervising pharmacist; and further, the Board suspended the Special Work Permit and subsequently reinstated license for five years and stayed the execution of the suspension, then placed the Special Work Permit and subsequently reinstated license on probation for five years effective on the date of issuance of the Special Work Permit, subject to certain terms enumerated within the voluntary consent agreement; and further, among the enumerated terms, the restriction against any ownership interest in any pharmacy licensed by the Board shall survive the period of probation and remain in effect for the

remainder of his life.

Amy Rebecca Johnson (PST.021377): 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 to a term of 10 years and stayed the execution of the suspension, then placed the license on probation for 10 years effective May 26, 2021 subject to certain terms enumerated within the voluntary consent agreement.

Lauren Ruffino Etienne (PST.019969): Ms. Hall moved to grant 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, terminated the probationary period originally scheduled to conclude on November 14, 2023, and then restored the license to active and unrestricted status.

Nancy Lynn Odom (PST.014796) Ms. Hall moved to grant 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, terminated the probationary period originally scheduled to conclude on November 26, 2023, and then restored the license to active and unrestricted status.

Matthew John Guarisco (PST.014303) Ms. Hall moved to deny 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 denied his request for modification of previous orders, and further, all terms imposed in his February 2020 Probation Board Order shall remain in effect.

Rebecca Ann Champion (PTC Applicant) Ms. Hall moved to deny the application and refuse to issue the credential. There were no member questions or public comments. The Board denied the application and refused to issue the pharmacy technician registration, and further, conditioned the acceptance of any future application upon her satisfaction of certain requirements identified within the hearing order.

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

F. Reinstatement Committee

Mr. Aron called upon Mr. Valentine for the committee report. Mr. Valentine reported the committee met the previous day to consider two

referrals from the staff – for a pharmacy’s CDS license and for one pharmacist. In addition, he informed the members of his collaboration with Mr. McKay relative to a request for the reinstatement of a lapsed pharmacy technician certificate in the interim. Mr. Valentine then presented the following cases to the members for their consideration.

Jovana Claire Cormier (CPT.004701): Mr. Valentine reported the approval of a voluntary consent agreement for the reinstatement of the lapsed certificate, conditioned upon the applicant’s acquisition of at least 250 hours of supervised experience in a board-approved pharmacy under the authority of a Special Work Permit prior to May 12, 2023.

Peter Michael Hanley, Jr. (PST.015158): Mr. Valentine moved to approve the proposed voluntary consent agreement. Mr. Broussard responded to a question from Mr. Darce about a committee policy relative to when the committee will consider requiring successful completion of the pharmacy law test as a condition of reinstatement of a lapsed or suspended pharmacist license. There were no further 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 lapsed license, conditioned upon his successful completion of the Multistate Pharmacy Jurisprudence Examination (MPJE) prior to May 26, 2023.

Steven’s Pharmacy, LLC d/b/a Steven’s Pharmacy [Port Allen, LA] (CDS.038660-PHY): Mr. Valentine 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 pharmacy’s CDS license, suspended the license for one year plus four months plus five days and stayed the execution of the suspension, then placed the CDS license on probation for one year plus four months plus five days effective May 26, 2021 subject to certain terms identified within the voluntary consent agreement, noting the probationary period is concurrent with the remainder of the probationary period previously imposed on the pharmacy’s permit; and further, assessed administrative costs.

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

G. *Tripartite Committee*

Mr. Aron called upon Dr. Strong for the committee report. Dr. Strong reported the committee had not met since the previous Board meeting.

H. *Regulation Revision Committee*

Mr. Aron called upon Mr. McKay for the committee report. Mr. McKay reported the committee had not met since the previous Board meeting; however, he reminded the members of the public hearing held on February

25, 2021 to receive comments and testimony on four regulatory projects:

- Project 2020-10 ~ CDS License for Hemp Facility;
- Project 2020-11 ~ Labeling & Delivery of Marijuana Products;
- Project 2020-12 ~ State of Emergency; and
- Project 2021-1 ~ Pharmacists, Pharmacies and Prescriptions.

He reported no comments had been received for the proposed rule changes for marijuana products or for state of emergency. He directed staff to proceed with the remaining steps of the promulgation process. Those projects were concluded with the publication of the final rules in the May 20, 2021 edition of the state register with immediate effective dates.

Mr. McKay reported receipt of comments for Project 2020-10 and Project 2021-1 and directed the members to copies of the hearing records for both projects in their meeting binders. He reminded the members of their duty to consider those comments and determine whether any revisions of the original proposed rules were warranted.

With respect to *Project 2020-10 ~ CDS License for Hemp Facility*, Mr. McKay indicated no formal comments had been received; however, staff had noted a change in the final federal rule relative to hemp facilities as well as current pending state legislation that could impact portions of the proposed rule. In particular, the final federal rule removed a requirement for laboratory accreditation which was included in their preliminary rule and was included in the eligibility requirement in the Board's proposed rule. Further, the current version of House Bill 640 includes a change in the categories of hemp facilities to be licensed by the state agriculture department, which if ultimately successful, will require a change in the categories of hemp facilities identified in the proposed rule. Following a brief discussion, Mr. McKay offered the following motion:

Resolved, to revise the original proposed rule, by amending:

- (1) §2701 to revise the definition of 'hemp facility' to include new terminology now pending in House Bill 640 of the 2021 Legislature;
and
- (2) §2705.E.2 to remove the laboratory accreditation requirement.

At Mr. Aron's request, Mr. Broussard provided additional information about the pending legislation. There were no further member questions or public comments. The motion was adopted after a unanimous vote in the affirmative.

With respect to *Project 2021-1 ~ Pharmacists, Pharmacies and Prescriptions*, Mr. McKay reported the receipt of one formal letter of comment as well as a staff recommendation, both concerning Section 521 relative to medication administration. Both documents contain recommendations to require pharmacy technicians to obtain certain education and training prior to administering medications. Several members who previously opposed permitting pharmacy technicians to administer medications indicated a change in their position to the extent they were willing to consider a proposed rule change favorable to that objective. Mr. Indovina then moved,

Resolved, to refer the proposed rule and the comments received at the public hearing to the Board's Regulation Revision Committee with a

directive to develop a recommendation for the Board's consideration at its next meeting.

Several members indicated their willingness to consider a change in direction as long as certain safeguards were in place relative to appropriate supervision of technicians as well as holding technicians accountable for their actions. The motion was adopted following a majority vote in the affirmative; Mr. Cassidy and Mr. Pitre objected.

Mr. McKay reported on several topics still pending on the committee's agenda and indicated the committee would meet prior to the next Board meeting to develop one or more recommendations for the members' consideration.

Mr. McKay closed his report with appreciation to the other committee members and staff for their ongoing efforts.

I. Executive Committee

Mr. Aron reported the committee had met the previous day to consider the items on their posted agenda. The committee members performed their annual reviews of policy manuals, rosters of educational programs, as well as contracts and agreements. He indicated Mr. McKay was prepared to offer motions on behalf of the committee.

- *Annual Review of Policy Manuals*

Mr. Aron reported staff had reviewed several policies in the Board's *Policy & Procedure Manual*, including the interim policies for the public health emergency, as well as the Board's *Loss Prevention Manual*. Staff recommended rescinding some policies, revising others, and terminating two interim policies. The committee members voted to recommend those changes. Mr. McKay then moved,

Resolved, to rescind *PPM.I.A.20 ~ Recording Patient Address on Prescriptions for Controlled Substances*.

At Mr. Aron's request, Mr. Broussard reminded the members their rules do not require the specificity noted in the policy and that some external agencies were using the policy against pharmacies. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. Mr. McKay then moved,

Resolved, to rescind *PPM.I.A.29 ~ Reporting Transactions in Marijuana Pharmacies*.

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

Resolved, to rescind *PPM.I.A.23 ~ Recordkeeping Requirements for Written Prescription Forms Received in Pharmacies by Facsimile or Electronic Images (Advisory Opinion)*.

At Mr. Aron's request, Mr. Broussard reminded the members how the policy originated and then noted the interpretation in the policy was subsequently incorporated into the Board's rule at LAC 46:LIII.1123.K. He informed the members he had given notice of this agenda item to the pharmacy which requested the advisory opinion back in 2018. There were no member

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

Resolved, to approve the proposed revision of *PPM.I.D.28 ~ Guidance to Licensees re PREP Act Declaration by HHS*.

Mr. McKay explained this revision incorporates the recently-issued Seventh Amendment of the federal PREP Act. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. Mr. McKay then moved,

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

At Mr. Aron's request, Mr. Broussard reported the proposed revision will result in board members not having direct access to criminal background check reports, and further, the change in time of destruction of such reports from seven days after the final credentialing decision to not more than thirty days after the final credentialing decision. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. Mr. McKay then moved,

Resolved, to terminate *PPM.I.D.1 ~ COVID-19 Public Health Emergency: State of Emergency*.

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

Resolved, to terminate *PPM.I.D.8 ~ COVID-19 Public Health Emergency: Marijuana Pharmacies*.

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

Resolved, to renew the Board's approval of the updated *Policy & Procedure Manual* for Fiscal Year 2021-2022.

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

Resolved, to renew the Board's approval of the *Loss Prevention Manual* for Fiscal Year 2021-2022.

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

- *Annual Review of Education and Training Programs*

Mr. Aron informed the members that ACPE had removed probationary status for one college of pharmacy since the Board's annual review the previous year, leaving two colleges in that accreditation status. Further, two colleges had consolidated into one institution. The members voted to recommend approval of the updated roster of approved colleges of pharmacy. With respect to pharmacy technician training programs, the committee voted to approve a new program and took notice of the loss of accreditation by two training programs. The committee members voted to recommend approval of the updated roster of pharmacy technician training programs. Mr. McKay then moved,

Resolved, to renew the Board's approval of the updated *Roster of Approved Colleges of Pharmacy* for Fiscal Year 2021-2022.

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. Mr. McKay then moved, **Resolved**, to approve the pharmacy technician training program at Louisiana Delta Community College.

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. Mr. McKay then moved, **Resolved**, to renew the Board's approval of the updated Roster of Approved Pharmacy Technician Training Programs for Fiscal Year 2021-2022.

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

- *Annual Review of Contracts and Agreements*

Mr. Aron reminded the members the Attorney General requires a separate resolution for each contract for professional legal services, to certify the Board does not pay contingency fees as part of such contracts. Since the Board envisions two separate contracts for professional legal services, the committee voted to recommend the approval of resolutions for both contracts. Mr. McKay then moved,

Resolved, to approve the proposed *Resolution for Professional Legal Services for Ms. Celia R. Cangelosi* for Fiscal Year 2021-2022.

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. Mr. McKay then moved, **Resolved**, to approve the proposed *Resolution for Professional Legal Services for Shows, Cali & Walsh, LLP* for Fiscal Year 2021-2022.

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

Mr. Aron informed the members that staff had reviewed the performance objectives of each contract proposed for renewal and determined that the contractor had met their obligations to the Board, and further, recommended the renewal of the contracts. He directed the members to a summary document in their meeting binder showing the contracts and agreements and disclosing the financial terms of each. The committee members voted to recommend renewal of the contracts and agreements. Mr. McKay then moved,

Resolved, to approve the proposed contract for professional legal services with Ms. Celia R. Cangelosi, at the stipulated rate, in an amount not to exceed \$100,000 for Fiscal Year 2021-2022.

Mr. McKay indicated the Board rarely spends the total amount of money allowed for the contract but continues that allowance in the event there is a need. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. Mr. McKay then moved,

Resolved, to approve the proposed contract for professional legal services with Shows, Cali & Walsh, LLP, at the stipulated rate, in an

amount not to exceed \$50,000 for Fiscal Year 2021-2022.

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. Mr. McKay then moved, **Resolved**, to approve the proposed contract for professional accounting services with Champagne & Company, LLC, Certified Public Accountants, at the stipulated rates, in an amount not to exceed \$32,000 for Fiscal Year 2021-2022.

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. Mr. McKay then moved, **Resolved**, to approve the proposed agreement for the maintenance of eLicense information system with Tyler Technologies, at the stipulated rates, in an amount not to exceed \$100,000 for Fiscal Year 2021-2022.

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. Mr. McKay then moved, **Resolved**, to approve the proposed agreement for information network support services with Essential Solutions, LLC, at the stipulated rates, in an amount not to exceed \$50,000 for Fiscal Year 2021-2022.

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. Mr. McKay then moved, **Resolved**, to approve the proposed agreement for the operation of the state prescription monitoring program with Appriss, Inc., at the stipulated rates, in an amount not to exceed \$200,000 for Fiscal Year 2021-2022.

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. Mr. McKay then moved, **Resolved**, to approve the proposed agreement for the integration of PMP Gateway and NarxCare in the state prescription monitoring program, at the stipulated rates, in an amount not to exceed \$700,000 for Fiscal Year 2021-2022.

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. Mr. McKay then moved, **Resolved**, to approve the proposed renewal of the cooperative endeavor agreement with ULM College of Pharmacy for the maintenance of the Board's Drug Price Transparency Website, at the stipulated rate, in an amount not to exceed \$43,000 for Fiscal Year 2021-2022.

Mr. McKay indicated the organization which originally agreed to grant the funding for the website is not current on its payment obligation, and the Board may need to reconsider any path forward after Fiscal Year 2022. There were no further member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. Mr. McKay then moved, **Resolved**, to approve the proposed renewal of the agreement for the publication of the Board's newsletter by the NABP Foundation, at the stipulated rates, in an amount not to exceed \$2,000 for Fiscal Year 2021-2022.

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. Mr. McKay then moved, **Resolved**, to approve the proposed renewal of the agreement with Metrc for the operation of the Product Identification Module in the Louisiana Medical Marijuana Tracking System, at the stipulated rate, in an amount not to exceed \$1,200 for Fiscal Year 2021-2022. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative.

- *Annual Review of Examination Administrators*

Mr. Aron reported the committee members voted to recommend the continuing approval of the current examination administrators. Mr. McKay then moved,

Resolved, to renew the Board's approval of the National Association of Boards of Pharmacy (NABP) as the administrator of the pharmacist licensure examinations for Fiscal Year 2021-2022, including the North American Pharmacist Licensure Examination (NAPLEX), the Multistate Pharmacy Jurisprudence Examination (MPJE), and the Foreign Pharmacy Graduate Equivalency Examination (FPGEE).

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. Mr. McKay then moved, **Resolved**, to renew the Board's approval of the Examination for Certification of Pharmacy Technicians (ExCPT) administered by the National Healthcareer Association (NHA) for Fiscal Year 2021-2022.

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. Mr. McKay then moved, **Resolved**, to renew the Board's approval of the Pharmacy Technician Certification Examination (PTCE) administered by the Pharmacy Technician Certification Board (PTCB) for Fiscal Year 2021-2022.

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

- *Implementation Plan for Issuance of Tenth Marijuana Pharmacy Permit*

Mr. Aron reported the committee reviewed a staff proposal to implement the credentialing process for the issuance of the tenth marijuana pharmacy permit. He directed the members to a copy of that plan in their meeting binder, noting the intent to open a 60-day period for the acceptance of applications beginning on July 1, 2021. He noted the statewide map showing the number of patients receiving marijuana products by region. The committee voted to recommend the approval of the implementation plan. Mr. McKay then moved,

Resolved, to approve the proposed implementation plan for the issuance of the tenth marijuana pharmacy permit to a location within Region 9.

Mr. Fontenot described his research of the marijuana dispensing transaction data in the PMP and how he compiled the data for the statewide map. Mr. Broussard responded to a question from Mr. Cassidy relative to the placement of a marijuana pharmacy within a specific region. Some of the members discussed the committee ranking process. There were no further member questions or public comments. The motion was adopted after a unanimous vote in the affirmative.

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

At this point, Mr. Aron declared a brief recess. It was noted the members recessed at 10:30 a.m. and then reconvened at 11:05 a.m. Mr. Aron resumed the sequence of the posted agenda.

11. Staff Reports

J. Report of Assistant Executive Director

Mr. Aron called upon Mr. Fontenot for his report. Mr. Fontenot 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. He reported the program staff continues to issue prescriber report cards detailing their opioid prescribing rate in comparison to their peers. He also reported the program staff continues to notify prescriber licensing boards of their licensees who appear to not be compliant with the mandatory use law for prescribers. He noted the program staff continues to monitor compliance with mandatory reporting requirements and noted the compliance rate in pharmacies is very high. Finally, he reported receipt of an additional grant from the La. Dept. of Health to cover the licensing fees for pharmacies to integrate the PMP Gateway and NarxCare into their electronic health record systems and dispensing information systems. There were no member questions or public comments.

Mr. Fontenot then directed the members to the requests from 13 pharmacies seeking a waiver from the duty to report zero prescription transaction reports to the prescription monitoring program. Mr. McKay then moved,

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

- > PHY.008224-NR – Advanced InfusionCare (FL);
- > PHY.008183-NR – Alliance Pharmacy (TX);
- > PHY.008228-NR – DirectRx Pharmacy (MI);
- > PHY.008209-HOS – East Jefferson General Hospital (LA);
- > PHY.008246-NR – Kroger Specialty Pharmacy (CA);
- > PHY.008235-HOS – Louisiana Behavioral Health (LA);
- > PHY.008191-NR – MedWiseRx (TX);
- > PHY.008205-NR – MK Pharmacy (TX)

- > PHY.008229-NR – Optum Frontier Therapies (MI);
 - > PHY.008217-NR – Optum Infusion Services 501 (NV);
 - > PHY.008118-HOS – Our Lady of Lourdes Infusion Pharmacy (LA);
 - > PHY.008202-NR – TPC Pharmacy (TX); and
 - > PHY.008201-NR – vitaCare Prescription Services (FL)
- once they have executed the standard consent agreement for that purpose.

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

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.

Nnodum IHEME (PST.015177): Mr. LeBas 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 placed the license on probation for eight months plus 24 days subject to certain terms identified within the voluntary consent agreement; and further, assessed administrative costs, noting the probationary period is concurrent with the remainder of the probationary period imposed on his Ohio pharmacist license by the Ohio State Board of Pharmacy.

Joseph Charles Campo (PST.009089): Mr. LeBas moved to accept the voluntary surrender. 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 of the credential, resulting in the active suspension of the license for an indefinite period of time effective March 10, 2021.

Hai Dinh Nguyen (PST.023811): Mr. LeBas 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 \$1,000 plus administrative costs.

Integrity Rx Specialty Pharmacy, LLC d/b/a Integrity Rx Specialty Pharmacy [Scottsdale, AZ] (PHY.008165): Mr. LeBas 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 \$15,000 plus administrative costs.

Kacee Lynn Fitzpatrick (CPT.014889): Mr. LeBas moved to accept the voluntary surrender. 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 of the credential, resulting in the active suspension of the certificate for an indefinite period of time effective May 4, 2021.

Mandy Renee Arrant (PST.019118): Mr. LeBas moved to accept the voluntary surrender. 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 of the credential, resulting in the active suspension of the license for an indefinite period of time effective May 13, 2021.

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
 - Louisiana 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)

Mr. Broussard responded to a question from Mr. Resweber about the NABP-AACP District 6-7-8 meeting planned for August 29 – September 1, 2021 in Carefree, AZ. Mr. Broussard informed the members he had also just received the registration information for the MALTAGON Conference, scheduled for Oct. 17-20, 2021 in Gulf Shores, AL. He noted an error in the flyer and that it was being corrected, and that he would distribute the corrected registration materials within the next few days. He also reminded the members the next NABP Annual Meeting was scheduled for May 19-21, 2022 in Phoenix, AZ.

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

12. New Agenda Items Added During Meeting

There were no new agenda items added during the meeting.

13. Announcements

Mr. Aron directed the members to the announcements in their meeting binder, in particular the dates for the remaining board meetings for Calendar Year 2021.

14. Recess

Having completed the tasks itemized on the posted agenda, with no further business pending before the Board and without objection, Mr. Aron placed the Board in recess at 11:25 a.m.

* * * * *

The Louisiana Board of Pharmacy convened an administrative hearing on Wednesday, May 26, 2021 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

Mr. Aron called the hearing to order at 1:00 p.m.

B. Invocation & Pledge

Mr. Valentine delivered the invocation and Mr. Resweber led the group in the Pledge of Allegiance.

C. Quorum Call

Mr. Aron called upon the Secretary, Mr. 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
Mr. David A. Darce
Ms. Jacqueline L. Hall
Mr. Richard M. Indovina, Jr.
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
Mr. Douglas E. Robichaux
Dr. Raymond J. Strong
Mr. Rhonny K. Valentine

Member Absent:

Mr. Kevin LaGrange

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. LaGrange 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. Without objection, the Board adopted the posted agenda dated May 1, 2021.

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 general comments on non-agenda items from the guests present; none were offered.

Appearances

Mr. Aron indicated he would serve as the Hearing Officer. Mr. Mark LaCour served as the Official Recorder and Mr. Malcolm Broussard served as the Hearing Clerk.

Mr. Aron requested counsel for all parties to make their appearances. Ms. Celia

Cangelosi appeared for the Board. Mr. Karl Koch appeared for the respondents, Melior, Inc. *d/b/a* Lil Daves as well as David Keith Chauvin Jr., who were also present. Mr. Blake Little appeared for the complainant, Ms. Kathryn LeBlanc. Mr. Jacob Simpson appeared for Barker's Pharmacy. Mr. Koch objected to any participation by counsel for Ms. LeBlanc or by counsel for Barker's Pharmacy. He stated the administrative complaint was signed by Mr. Carlos Finalet and that Mr. Finalet was the complainant. Ms. Cangelosi stated the evidence would show the case arose from a complaint filed by Ms. LeBlanc. Mr. Aron ruled to allow participation by the counsel for Ms. LeBlanc.

Mr. Aron informed the members the two cases on the agenda originated with the Violations Committee, and the members of that committee in attendance at their December 2020 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. Aon 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 05-01-2021

- 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
- * Appearances
- F. Formal Hearing
 - 1. Case No. 20-0349 ~ PHY.008099 – Melior, Inc. *d/b/a* Lil Daves [Baton Rouge, LA]
 - 2. Case No. 20-0344 ~ PST.016278 – David Keith Chauvin, Jr.
- G. New Agenda Items Added During Meeting
- H. Adjourn

F. Formal Hearings

Ms. Cangelosi moved to consolidate both cases since the fact patterns in both cases were similar. Mr. Koch indicated he had no objection. Mr. Aron ruled the cases were consolidated.

Melior, Inc. *d/b/a* Lil Daves [Baton Rouge, LA] (PHY.008099) and David Keith Chauvin, Jr. (PST.016278) Counsel for both parties offered opening statements. Ms. Cangelosi presented four witnesses and 38 exhibits.

During Ms. Cangelosi's examination of her fourth witness, Mr. Aron declared a brief

recess. It was noted the hearing panel recessed at 2:50 p.m. and then reconvened at 3:06 p.m.

Ms. Cangelosi continued her examination of the witness. At the conclusion of her examination of witnesses and introduction of exhibits, Ms. Cangelosi rested her case. Mr. Koch requested a short recess before beginning his case.

Mr. Aron declared a brief recess. It was noted the hearing panel recessed at 4:15 p.m. and then reconvened at 4:40 p.m.

Mr. Koch then presented three witnesses and two exhibits, and then rested his case. Counsel for both parties then offered closing statements. Ms. Cangelosi proffered proposed Findings of Fact and Conclusions of Law. The hearing clerk verified the number of exhibits accepted for the hearing record. Mr. McKay then moved to enter into executive session for the purpose of deliberating the disciplinary matter and discussing the respondents' 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 6:53 p.m. and then reconvened at 8:32 p.m. Mr. Aron 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 cases.

Dr. Strong informed Mr. Aron he was prepared to offer motions relative to David Keith Chauvin, Jr., holder of Louisiana Pharmacist License No. PST.016278. Mr. Aron invited Dr. Strong to offer his motions for the members' consideration.

Dr. Strong moved,

Resolved, that the hearing panel, having heard the testimony, considered the evidence, observed the demeanor of the witnesses and weighed the credibility of each, accept the Findings of Fact as proposed by the Prosecuting Attorney, modify them by

(1) amending Item 13 to correct the date to read "July 9, 2020";

(2) deleting Item 17; and

(3) amending Item 32 to remove the words "a complaint"; and further, adopt the amended findings 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. Dr. Strong 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. Dr. Strong then moved,

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

It is ordered, adjudged, and decreed that Louisiana Pharmacist License

No. PST.016278, held by David Keith Chauvin, Jr., shall be, and is hereby, issued a Letter of Reprimand effective on the entry of this order; and further, the respondent shall pay the following assessments:

- (1) a fine of \$10,000;
- (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.

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

Mr. Cassidy informed Mr. Aron he was prepared to offer motions relative to Melior, Inc. *d/b/a* Lil Daves, holder of Louisiana Pharmacy Permit No. PHY.008099. Mr. Aron invited Mr. Cassidy to offer his motions for the members' consideration.

Mr. Cassidy moved,

Resolved, that the hearing panel, having heard the testimony, considered the evidence, observed the demeanor of the witnesses and weighed the credibility of each, accept the Findings of Fact as proposed by the Prosecuting Attorney, modify them by amending Item 10 to correct the date to read "July 9, 2020"; and further, adopt the amended findings 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 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 Permit No. PHY.008099, held by Melior, Inc. *d/b/a* Lil Daves, shall be, and is hereby, issued a Letter of Reprimand effective on the entry of this order; and further, the respondent shall pay the following assessments:

- (1) a fine of \$10,000;
- (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.

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

G. New Agenda Items Added During Meeting

There were no new agenda items added during the meeting.

H. 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 hearing at 8:40 p.m.

Minutes prepared by Malcolm Broussard

These corrected minutes were approved by the Board during their subsequent meeting on August 18, 2021.

Richard M. Indovina, Jr.
Secretary