



Louisiana Board of Pharmacy
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Minutes

Regular Meeting

Thursday, August 13, 2020 at 9:00 a.m.

Location:

Videoconference

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A regular meeting of the Louisiana Board of Pharmacy was held on Thursday, August 13, 2020 by videoconference. As noted on the meeting agenda, the Board certified it could not achieve an in-person quorum due to the provisions of *Governor's Proclamation No. 96 JBE 2020 ~ COVID-19 Public Health Emergency / Renewal of Phase 2 of Resilient Louisiana*. Therefore, as permitted by R.S. 42:17.1, the Board elected to conduct its meeting by videoconference.

1. Call to Order

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

Mr. Aron informed the members and guests that the petitioner for Agenda Item 11, who had requested an opinion relative to the delivery of dispensed prescriptions to lockers for employees, had just withdrawn their request. He indicated that if anyone had joined the call in connection with that request, he wanted them to know the matter would not be considered that day.

2. Quorum Call

Mr. Aron called upon the Executive Director, Mr. Malcolm Broussard, 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. Kevin LaGrange
Mr. Robert C. LeBas
Mr. Richard Mannino
Mr. Marty R. McKay
Mr. Anthony G. Mercante
Mr. Blake P. Pitre
Mr. Don L. Resweber
Mr. Douglas E. Robichaux (late arrival)
Dr. Raymond J. Strong (late arrival)
Mr. Rhonny K. Valentine (late arrival)

Staff Present:

Mr. Malcolm J. Broussard, Executive Director
Mr. Carlos M. Finalet, III, General Counsel
Mr. M. Joseph Fontenot, Assistant Executive Director
Ms. Kelley L. Villeneuve, Office Manager
Mr. Benjamin S. Whaley, Chief Compliance Officer
Mr. Cary D. Aaron, Compliance Officer
Mr. Daniel M. Dennis, Compliance Officer
Ms. Nicole L. Gross, Compliance Officer

Ms. Alicia P. Harris, Compliance Officer
Ms. Becky C. Parker, Compliance Officer
Mr. Huey J. Savoie, Compliance Officer

Guests:

Mr. Richard A. Soileau
Dr. Angelle M. Huff
Mr. Ben Sims
Ms. Brandi Armand
Mr. William C. Jones
Ms. Chris B. Melancon
Mr. Christopher LaGrange
Mr. David J. Bares
Ms. Diane M. Milano
Mr. Don Caffery
Dr. Dwana S. Day
Ms. Elise Rigby
Ms. Emily Haugh
Mr. Errol A. Duplantis, Jr.
Dr. Heather N. Maturin
Mr. Jeff Brown
Mr. H. Bernard LeBas
Dr. Janet L. Y. White
Dr. Jessica Adams
Dr. John Rocchio
Mr. Johnny Staub
Dr. Justin M. Scalfano
Mr. Russell Champagne
Ms. Penny Scruggins
Mr. Kenneth Dietz
Dr. Lorri Walmsley
Mr. Mark Johnston
Ms. Mary Staples
Dr. Michael B. Cockerham
Ms. Faith N. Hollier
Mr. Patrick K. Brian
Mr. Paul D. Menasco
Dr. Robert Geddes
Mr. Robert Sonnier
Dr. Ryan M. Burke
Dr. Sarah A. Mercante
Ms. Shelly Dupre
Ms. Stacy Hall
Dr. Tiffany T. Nguyen
Mr. Tim Frost
Mr. Thomas L. Martin

Mr. Broussard certified Mr. Robichaux, Dr. Strong, and Mr. Valentine did not reply to the quorum call; 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. Aron asked if there were any additional agenda items to be added. None were requested. With no requests to amend the agenda, and without objection, the members adopted the posted agenda dated August 11, 2020. Mr. Aron requested authority to re-order the agenda as may become necessary and there were no objections to that request.

4. Consideration of Minutes

Mr. Aron reminded the members they had received the draft minutes from the Special Board Meeting on July 28, 2020 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. Aron declared the minutes were approved as presented.

5. Report on Action Items

Mr. Aron 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.

6. 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 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, Board committees, and Executive Director in the general conduct and transactions of Board business since July 28, 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 roll call vote in the affirmative.

7. Opportunity for Public Comment

Mr. Aron reminded the members and guests the agenda for the meeting solicited public comments on any agenda item prior to the meeting. Mr. Aron asked Mr. Broussard whether any comments had been received. Mr. Broussard replied many comments had been received prior to the meeting concerning two regulatory proposals scheduled for consideration that day. He indicated they had been forwarded to the members and that he was prepared to read them into the record. Mr. Aron directed that be done. Mr. Broussard noted receipt of the following public comments prior to the meeting:

➤ *Regulatory Proposal 454-2019-03 ~ Medication Administration (Draft #3)*

Dr. Robert Geddes, in favor

Mr. Jeenu Philip, in favor

Dr. Jarred Binney, opposed

Mr. Bradley DiGerolamo, opposed

➤ *Regulatory Proposal 454-2019-13 ~ Staffing Ratios for Pharmacy Technicians
(Draft #2)*

Dr. My-Ngoc Tran, in favor
Dr. Nhu Pham, in favor
Dr. Jessica Vu, in favor
Dr. Tony Tran, in favor
Dr. Nikita Taylor, in favor
Dr. Edward Mendez, in favor
Dr. Nhi Tran, in favor
Dr. Brandi Marcade, in favor
Dr. Rebecca Han, in favor
Ms. Kim Wixson, opposed
Dr. Jonathan Bui, opposed
Ms. Christine Leger, opposed
Ms. Brooke Le, opposed
Mr. Errol Duplantis, opposed
Mr. Kevin Tomb, opposed
Dr. Forrest Fontenot, opposed
Ms. Temika Broussard, opposed
Dr. Marissa Rogers, opposed
Mr. Carl Savoie, opposed
Ms. Kimberly St. Marie, opposed
Mr. Don Frederick, opposed
Ms. Nikki Hollier, opposed
Ms. Tammy Stutes, opposed
Ms. Jennifer Stelly, opposed
Mr. William Jones, opposed
Ms. Jada Milton, opposed
Dr. Richard Djapni, opposed
Mr. Bart Enicke, opposed
Mr. Minh Nguyen, opposed
Ms. Shay Thompson, opposed
Mr. Ivan Landry, opposed
Ms. Cheramie Brewer, opposed
Ms. Estelle Guidry, opposed
Dr. Amy Tran, opposed
Mr. Robert Hollier, opposed
Mr. Tim Arceneaux, opposed
Ms. Meredith Stutes, opposed
Dr. Dana Antoon, opposed
Ms. Germaine Robinson, opposed
Ms. Jody Landry, opposed
Mr. Ken Savoie, opposed
Mr. Vince Bartley, opposed
Mr. Randal Girouard, opposed
Ms. Melissa Magee, opposed
Dr. Robert Holt, opposed

Ms. Melissa Stevens, opposed
Ms. Lauren Signorelli, opposed
Ms. Claire Ginfala, opposed
Ms. Veronica Comeaux, opposed
Ms. Sharron Ledoux, opposed
Dr. Brittany Combel, opposed
Ms. Loretta Boesing, opposed
Ms. Rachel LaCroix, opposed
Mr. Robert Rock, opposed
Mr. Nicholas LeBas, opposed
Ms. Pixie Carter, opposed
Mr. Jeenu Philip, in favor
Dr. Hai Bui, opposed
Dr. Manisha Paul, in favor
Ms. Mitzi Bates, opposed
Ms. Melissa Turner, opposed
Ms. Allison Seilhan, opposed
Ms. Shanna Marlowe, opposed
Mr. Anward Mayeaux, opposed
Ms. Renee Melancon, opposed
Ms. Dawn Higginbotham, opposed
Mr. Bert Blanchard, opposed
Ms. Savitra Collins, opposed
Dr. Shane Landry, opposed
Ms. Mary Kreedl, opposed
Dr. Johnathan Chang, in favor
Dr. Justin Scalfano, opposed
Ms. Lorna Gautreaux, opposed
Dr. Chelsie Head, opposed
Dr. Jarred Binney, opposed
Dr. Dung Nguyen, opposed
Ms. Lisa Cormier, opposed
Ms. Mary Greene, opposed
Mr. Bradley DiGerolamo, opposed

Mr. Aron then offered an opportunity for any public comments about any non-agenda items; 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.

8. *Special Orders of the Day*

There were no special orders for that day.

9. Committee Reports

A. Finance Committee

Mr. Aron recognized Mr. Russell Champagne and Ms. Penny Scruggins, the certified public accountants with whom the Board has contracted for the compilation and preparation of the quarterly and annual financial reports. Mr. Champagned directed the members to a copy of the Final Report for Fiscal Year 2019-2020 in their meeting binder. He reviewed the report and called attention to unusual findings and factors influencing the Board's net position at the end of that fiscal year. He replied to a question from Mr. Resweber about the impact of the pension liability on other state agencies. Mr. Aron expressed his appreciation to Mr. Champagne and Ms. Scruggins for their assistance, noting the 20+ year history of their work with the Board. Mr. Aron then called upon Mr. McKay for the committee report. Mr. McKay indicated the committee members had reviewed the report during their meeting the previous day and voted to recommend the approval of the report. He then moved,

Resolved, to approve the *Final Report for Fiscal Year 2019-2020* subject to legislative audit.

Mr. Broussard replied to a question from Mr. LaGrange about the recording of the cost information for the medical marijuana tracking system. There were no further questions or public comments. The motion was adopted after a unanimous roll call vote in the affirmative. Mr. McKay then reported the committee had also reviewed a staff proposal to amend the budget for the current fiscal year, made some adjustments, then voted to recommend the approval of that revised budget amendment. He then moved,

Resolved, to approve *Proposed Budget Amendment No. 1 for Fiscal Year 2020-2021*.

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

Finally, on behalf of Committee Chair Blake Pitre, Mr. McKay expressed his appreciation to the other committee members for their work the previous day.

B. Application Review Committee

Mr. Aron noted the committee had not met since the previous Board meeting. He informed the members he had appointed Mr. Doug Robichaux to chair the committee, replacing Mr. Andy Soileau who had previously chaired the committee and had completed his service to the Board on June 30.

C. Reciprocity Committee

Mr. Aron called upon Mr. Cassidy for the committee report. Mr. Cassidy reported the staff had evaluated 42 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. He 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 noted the committee chair, Mr. Richard Indovina, was traveling that day, and although he was able to listen and vote was not able to read reports into the record. Mr. Aron called upon the ranking member, Ms. Hall, for the committee report. Ms. Hall reported the committee held preliminary hearings on July 14-15, 2020 to consider their posted agenda which included 37 cases. Prior to the preliminary hearing, the committee chair granted continuances to two of the respondents. Following their interviews and deliberations at the hearing, the committee took no action with respect to six of the respondents and issued non-disciplinary Letters of Noncompliance to 15 of the respondents. The committee offered proposed voluntary consent agreements to the remaining 14 respondents, all of whom accepted their proposed agreements. Ms. Hall then presented a synopsis of each of the cases to the members. Following the conclusion of the case presentations, Ms. Hall moved,

Resolved, to approve each of the 14 proposed voluntary consent agreements itemized in the committee's report.

There were several questions concerning the same dispensing error at three different pharmacies. Mr. Indovina indicated the committee determined the error was primarily a workflow issue and applied the formal discipline to the permits. The committee also issued non-disciplinary letters of noncompliance to the pharmacists involved. The members requested a newsletter article relative to pharmacists performing final checks for the dispensing of reconstituted antibiotic suspensions. There was one public comment. The motion was adopted after a unanimous roll call vote in the affirmative. The consent agreements approved by the Board are itemized here:

Walgreen La. Co., Inc. d/b/a Walgreen Pharmacy No. 04566 [Lafayette, LA] (PHY.004057): The Board assessed a fine of \$2,500 plus administrative and investigative costs.

Walgreen La. Co., Inc. d/b/a Walgreen Pharmacy No. 04192 [New Iberia, LA] (PHY.003934): The Board assessed a fine of \$2,500 plus administrative and investigative costs.

Walgreen La. Co., Inc. d/b/a Walgreen Pharmacy No. 07166 [New Iberia, LA] (PHY.005012): The Board assessed a fine of \$2,500 plus administrative and investigative costs.

Louisiana CVS Pharmacy, LLC d/b/a CVS Pharmacy No. 5344 [Monroe, LA] (PHY.005775): The Board assessed a fine of \$60,000 plus administrative and investigative costs.

Central Rx Services, LLC d/b/a IngenioRx Specialty or CVS Specialty [Las Vegas, NV] (PHY.007919): The Board assessed a fine of \$50,000 plus administrative and investigative costs.

Wal-Mart Stores East, LP d/b/a Wal-Mart Pharmacy No. 10-5315 [Orlando, FL] (PHY.005063): The Board assessed a fine of \$10,000 plus administrative and investigative costs.

Charles Edward Maier (PST.015447): The Board issued a Letter of Reprimand, and further, assessed a fine of \$500 plus administrative and investigative costs.

Neumann's Pharmacy, LLC d/b/a Neumann's Pharmacy [Tallulah, LA] (PHY.006815): The Board assessed a fine of \$500 plus administrative and investigative costs.

Carla Lawrence Nordquist (SWP.000776 & PTC.021233): The Board issued a Letter of Reprimand, and further, assessed a fine of \$250 plus administrative costs.

Charbonnet Health, LLC d/b/a Charbonnet Family Pharmacy [New Orleans, LA] (PHY.007000): The Board assessed a fine of \$5,000 plus administrative and investigative costs.

Lynn Ann Johnson (PST.019325): The Board issued a Letter of Warning, and further, assessed a fine of \$250 plus administrative and investigative costs.

City Drug, Inc. d/b/a City Drug Store [Bunkie, LA] (PHY.004234): The Board assessed a fine of \$5,000 plus administrative and investigative costs.

The Compounding Center Pharmacy, LLC d/b/a The Compounding Center Pharmacy [Lafayette, LA] (PHY.005007): The Board suspended the permit for two years and stayed the execution of the suspension, then placed the permit on probation for two years effective August 13, 2020 subject to certain terms enumerated within the voluntary consent agreement, and further, assessed a fine of \$10,000 plus administrative and investigative costs.

Darrell Glenn Granger (PST.012078): 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 August 13, 2020 subject to certain terms enumerated within the voluntary consent agreement, and further, assessed administrative costs.

Ms. Hall then reported the committee had also performed its annual review of the committee's policies and procedures. Of the four policies

reviewed, the committee voted to revise the policy relative to publication of final adverse actions. She then moved,

Resolved, to approve the proposed revision of *PPM.I.C.7.a ~ Publication of Final Adverse Actions*.

Mr. Broussard replied to a question from one member relative to publication of adverse actions related to impairment. There were no public comments. The motion was adopted after a unanimous roll call vote in the affirmative.

Ms. Hall then presented the Complaint Investigation Monitor Report. She noted there were 179 open cases at the beginning of the previous fiscal year. 403 new cases were opened, and 400 cases were closed, leaving 182 open cases to start the current fiscal year. She indicated for the 400 case closures, the average time to complete an investigation was 50 days, and further, 13 of those 400 case closures (3.3%) exceeded the policy threshold of 180 days. She indicated the most common reason for an investigation to exceed the policy threshold is a collaborative investigation with other state or federal agencies and that another reason would be a nonresident case on appeal.

She reported the committee's next preliminary hearing was scheduled for September 15 to consider the 24 cases posted on that agenda.

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

E. Impairment Committee

Mr. Aron called upon Ms. Hall for the committee report. Ms. Hall reported the committee met on August 11 to consider four referrals from the staff – one petition for modification of previous orders, one application for a new credential, and two cases for informal conference. Following their interviews of the applicants and subsequent deliberations, the committee deferred consideration of the application for a new credential pending receipt of the results of a medical evaluation. With respect to one of the respondents scheduled for an informal conference, that person did not appear; therefore, the emergency summary suspension previously issued will remain in effect until the respondent does appear at a future meeting. Ms. Hall then presented the following recommendations to the members for their consideration.

Kevin Trenouth Kellow (PST.019095): Ms. Hall moved to grant the applicant's request for modification of previous orders to terminate the probationary period originally scheduled to conclude on May 10, 2022. There were no member questions or public comments. The motion was adopted after a unanimous roll call vote in the affirmative. The Board granted the applicant's request for modification of previous orders, removed all probationary terms, then restored the license to active and unrestricted status.

Roy Kirk Fisher, Jr. (PST.018600): Ms. Hall moved to grant the applicant's request to reinstate the previously suspended license. There were no

member questions or public comments. The motion was adopted after a unanimous roll call vote in the affirmative. The Board granted his request for reinstatement of the previously suspended license, converted the duration of the suspensive period from an indefinite term to a term of 15 years and stayed the execution of the suspension, then placed the license on probation for 15 years effective August 13, 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 on August 11.

F. Reinstatement Committee

Mr. Aron informed the members he had appointed Mr. Rhonny Valentine to chair the committee, replacing Mr. Ron Moore who completed his service to the Board on June 30, 2020. Mr. Aron then called upon Mr. Valentine for the committee report. Mr. Valentine reported the committee met on August 11 to consider six referrals from the staff – one petition for reinstatement of a suspended credential, three petitions for reinstatement of lapsed credentials and two requests for modification of previous orders. Following their interviews of the applicants and subsequent deliberations, the committee developed recommendations for each of the applicants. Mr. Valentine presented the following recommendations to the members for their consideration.

Chau Thai Nguyen (PST.022285): Mr. Valentine moved to grant the applicant's request for reinstatement of the suspended license. There were no member questions or public comments. The motion was adopted after a unanimous roll call vote in the affirmative. The Board granted the applicant's request for reinstatement of the previously suspended license, then restored the license to active and unrestricted status.

Sarah Elizabeth Logue (CPT.009972): Mr. Valentine moved to grant the applicant's request for reinstatement of the lapsed certificate contingent upon the satisfaction of certain requirements prior to August 13, 2022. There were no member questions or public comments. The motion was adopted after a unanimous roll call vote in the affirmative. The Board granted the applicant's request for reinstatement of the lapsed certificate contingent upon the satisfaction of the following requirements prior to August 13, 2022: (1) the acquisition of at least 250 hours of updated practical experience, to be earned under the authority of a Special Work Permit to be obtained from the Board office, (2) a letter of competency from the pharmacist supervising the updated practical experience, and (3) the acquisition of 10 hours of ACPE-accredited technician-specific continuing pharmacy education (CPE), not to include the CPE hours submitted as part of the reinstatement application.

Eugenia Brignac Kocke (CPT.001732): Mr. Valentine moved to grant the applicant's request for reinstatement of the lapsed certificate contingent upon

the satisfaction of certain requirements prior to August 13, 2022. Mr. Finalet replied to a question that the applicant had previously passed a pharmacy technician certification examination. There were no public comments. The motion was adopted after a unanimous roll call vote in the affirmative. The Board granted the applicant's request for reinstatement of the lapsed certificate contingent upon the satisfaction of the following requirements prior to August 13, 2022: (1) the acquisition of at least 250 hours of updated practical experience, to be earned under the authority of a Special Work Permit to be obtained from the Board office, (2) a letter of competency from the pharmacist supervising the updated practical experience, and (3) the acquisition of 10 hours of ACPE-accredited technician-specific continuing pharmacy education (CPE), not to include the CPE hours submitted as part of the reinstatement application.

Lindy Reeves Fordham (CPT.004211): Mr. Valentine moved to grant the applicant's request for reinstatement of the lapsed certificate contingent upon the satisfaction of certain requirements prior to August 13, 2022. There were no member questions or public comments. The motion was adopted after a unanimous roll call vote in the affirmative. The Board granted the applicant's request for reinstatement of the lapsed certificate contingent upon the satisfaction of the following requirements prior to August 13, 2022: (1) the acquisition of at least 250 hours of updated practical experience, to be earned under the authority of a Special Work Permit to be obtained from the Board office, (2) a letter of competency from the pharmacist supervising the updated practical experience, (3) the acquisition of 10 hours of ACPE-accredited technician-specific continuing pharmacy education (CPE), not to include the CPE hours submitted as part of the reinstatement application, and (4) successful completion of a board-approved pharmacy technician certification examination.

Kimberly Juanita Murphy (PST.016122): Mr. Valentine moved to deny the applicant's request for modification of previous orders to remove the restriction which prevents her from accepting an appointment as the pharmacist-in-charge of a pharmacy. There were no member questions or public comments. The motion was adopted after a unanimous roll call vote in the affirmative. The Board denied the applicant's request for modification of previous orders.

Noah's Pharmacy, LLC d/b/a Noah's Pharmacy [Brusly, LA] (CDS.039326-PHY): Mr. Valentine moved to deny the applicant's request for reinstatement of the controlled substance privileges for the pharmacy. There were no member questions or public comments. The motion was adopted after a unanimous roll call vote in the affirmative. The Board denied the request for reinstatement of controlled substance privileges for the pharmacy.

Mr. Valentine closed his report with appreciation to the other committee members for their work during the committee meeting on August 11.

G. *Tripartite Committee*

Mr. Aron noted that Mr. Resweber is the committee chair. He also noted the committee had not met recently due to the absence of an assigned topic from the Board.

At this point, Mr. Aron declared a brief recess. It was noted the members recessed at 10:50 am and then reconvened at 11:05 am. Mr. Aron resumed the sequence of committee reports.

H. *Regulation Revision Committee*

Mr. Aron called upon Mr. McKay for the committee report. Mr. McKay reported the committee met on July 16 to consider the items on their posted agenda. He reminded the members one of the committee recommendations was a regulatory proposal relative to marijuana recommendations and that the Board had held a special meeting on July 28 to act on that regulatory proposal. He reported he was prepared to present the other regulatory proposals approved during that July 16 meeting.

Mr. Aron requested Mr. McKay adjust the sequence of the items in his report to prioritize the regulatory proposals relative to medication administration and staffing ratios for pharmacy technicians. Mr. Aron indicated a member had previously indicated his need to depart the meeting early but wanted to participate in the discussion and decision for those two proposals.

Mr. McKay reported the receipt of a formal request for rulemaking just prior to the July 16 meeting to authorize pharmacy technicians to administer immunizations, and further, to issue that authority as an emergency rule in light of the current public health emergency. In order to provide a mechanism for the Board to respond to the formal request, Mr. McKay reported the committee re-visited a regulatory proposal previously approved by the Board, *Regulatory Proposal 454-2019-03 ~ Medication Administration (Draft #2)*, added pharmacy technicians to the proposal to authorize them to qualify for and receive a medication administration registration, then voted to recommend the approval of Draft #3 of that proposal. He then moved,

Resolved, to approve *Regulatory Proposal 454-2019-03 ~ Medication Administration (Draft #3)*, and further, to authorize the Executive Director to promulgate the proposed rule change upon the instruction of the President, and further, to authorize the President to approve acceptable amendments as may become necessary during the promulgation process.

There were comments from several members and guests. The motion failed after a majority roll call vote in the negative. Voting in favor were Ms. Hall, Mr. Indovina, and Dr. Strong; voting in opposition were Mr. Cassidy, Dr. Cloud, Mr. Darce, Mr. LaGrange, Mr. LeBas, Mr. Mannino, Mr. McKay, Mr. Mercante, Mr. Pitre, Mr. Resweber, Mr. Robichaux, and Mr. Valentine.

Mr. McKay reported the committee agenda on July 16 had two items remaining from Regulatory Project 454-2019 and the committee developed recommendations for both of those items. He then moved,

Resolved, to reject *Regulatory Proposal 454-2019-13 ~ Staffing Ratios for Pharmacy Technicians (Draft #2)*, and further, to direct the Executive Director to notify the commentator requesting the change.

There were comments from several members and guests. The motion was adopted after a unanimous roll call vote in the affirmative.

Mr. McKay reminded the members they had previously approved two separate pilot projects relative to automated medication systems – the first relative to remote dispensing systems in unlicensed healthcare facilities and the second relative to automated medication systems in correctional facilities. He reported the committee had relied on results from the projects in their development of the regulatory proposal currently in process, and further, recommended the continuation of the authority for the pilot projects until the rule was promulgated. He indicated the authority for both pilot projects was scheduled to expire on August 31, 2020. He then moved,

Resolved, to extend the authority for the following pilot projects: (1) Remote Dispensing System by Highgate Ventures, LLC; and (2) Automated Medication System by Institutional Pharmacies of Louisiana, LLC; and further, to extend the authority for each of the projects until the earliest of the following dates: (a) promulgation of the final rule in *Regulatory Project 2020-2 ~ Automated Medication Systems*, or (b) August 31, 2021.

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

Mr. McKay returned to the sequence of regulatory proposals noted on the agenda. He noted the final remaining item from Regulatory Project 454-2019 relative to telepharmacy dispensing sites. He then moved,

Resolved, to approve *Regulatory Proposal 454-2019-34 ~ Telepharmacy Dispensing Site (Draft #3)*, and further, to authorize the Executive Director to promulgate the proposed rule change upon the instruction of the President, and further, to authorize the President to approve acceptable amendments as may become necessary during the promulgation process.

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

Mr. McKay reminded the members of the timeline for Regulatory Project 454-2019. He reported Act 454 of the 2018 Legislature required all rulemaking agencies in the state to conduct a public hearing on the entirety of its rules to solicit public comments on any existing rules believed to be contrary to law, outdated, unnecessary, overly complex, or burdensome and then respond to those comments. Further, every state agency was required to conduct their first such public hearing prior to January 1, 2020 and at least once during every six-year period thereafter. Mr. McKay reminded the members the Board held that first public hearing in June 2019. The Board evaluated the 48 comments received during their subsequent meeting in August 2019. The Board noted some of the requests were already underway in the rulemaking process and also denied some requests. The

Board referred 20 items to the committee, and as of that day, had returned all of the items back to the Board. Since some of the requested items will amend the same chapter of rules, staff has held all of the items pending the committee's completion of its work. He reported staff will now begin the formal promulgation process for all of the items approved by the Board. He also reported staff had set a calendar note the Board must hold its next Act 454 public hearing no later than June 26, 2025.

Mr. McKay reminded the members of their temporary waiver of the rule for the delivery of dispensed marijuana products. He noted that issue had been referred to the committee just prior to the public health emergency and the committee voted to recommend the approval of a regulatory proposal for that rule change. He then moved,

Resolved, to approve *Regulatory Proposal 2020-G ~ Delivery of Dispensed Marijuana Products (Draft #1)*, and further, to authorize the Executive Director to promulgate the proposed rule change upon the instruction of the President, and further, to authorize the President to approve acceptable amendments as may become necessary during the promulgation process.

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

Mr. McKay reported the staff's discovery of a conflict in the rules relative to the labeling of marijuana products by the producer, more specifically in the prescribed text required to appear on the product labels. The state agriculture department has slightly different wording required in their rules. Since the producers are regulated by the state agriculture department, the committee recommended resolving the conflict by amending the Board's rules to require compliance with the agriculture department's rules. He then moved,

Resolved, to approve *Regulatory Proposal 2020-H ~ Marijuana Product Labeling (Draft #2)*, and further, to authorize the Executive Director to promulgate the proposed rule change upon the instruction of the President, and further, to authorize the President to approve acceptable amendments as may become necessary during the promulgation process.

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

Mr. McKay reported staff's review of the state of emergency rule and a recommendation to increase the maximum quantity that could be dispensed for an emergency prescription. The committee voted to recommend the approval of that proposal. He then moved,

Resolved, to approve *Regulatory Proposal 2020-J ~ Emergency Dispensing (Draft #2)*, and further, to authorize the Executive Director to promulgate the proposed rule change upon the instruction of the President, and further, to authorize the President to approve acceptable amendments as may become necessary during the promulgation process.

There were no member questions or public comments. The motion was

adopted after a unanimous roll call vote in the affirmative.

Mr. McKay reported the receipt in April of a formal request for rulemaking to add a requirement for access to veterinary drug reference materials in the section of rules for pharmacies if their practice includes the dispensing of veterinary prescriptions. The committee agreed with the request and voted to recommend approval of the proposal. Mr. McKay then moved,

Resolved, to approve *Regulatory Proposal 2020-K ~ Veterinary Drug Reference (Draft #1)*, and further, to authorize the Executive Director to promulgate the proposed rule change upon the instruction of the President, and further, to authorize the President to approve acceptable amendments as may become necessary during the promulgation process.

There were comments from both members and guests. The motion was adopted after a unanimous roll call vote in the affirmative.

Mr. McKay reminded the members of their referral of Act 200 of the 2020 Legislature, relative to occupational licensing of military families, to the committee. The committee reviewed a staff proposal and voted to recommend its approval. Mr. McKay moved,

Resolved, to approve *Regulatory Proposal 2020-M ~ Occupational Licensing for Military Families (Draft #1)*, and further, to authorize the Executive Director to promulgate the proposed rule change upon the instruction of the President, and further, to authorize the President to approve acceptable amendments as may become necessary during the promulgation process.

During the discussion, Mr. McKay noted some drafting errors and offered an amendment to correct the inaccurate references to pharmacists and pharmacist licenses in the section of rule relative to pharmacy technicians. There were no further member questions or public comments. The motion to approve the amendments was adopted after a unanimous roll call vote in the affirmative. He then moved to approve the amended proposal re-titled *Regulatory Proposal 2020-M ~ Occupational Licensing for Military Families (Draft #2)*. There were no further member questions or public comments. The motion to approve the amended proposal was adopted after a unanimous roll call vote in the affirmative.

Mr. McKay reminded the members of their decision during the June 25 Board meeting to refer Regulatory Project 2020-2 ~ Automated Medication Systems and the underlying Regulatory Proposal 2019-C (Draft #7) back to the committee based on comments received during the May 29 public hearing. The committee approved changes to the same three areas discussed during that June 25 meeting and then voted to recommend the approval of the revised proposal to the Board. Mr. McKay then moved,

Resolved, to approve *Regulatory Proposal 2019-C ~ Automated Medication Systems (Draft #8)*, and further, to authorize the Executive Director to promulgate the proposed rule change upon the instruction of the President, and further, to authorize the President to approve acceptable amendments as may become necessary during the promulgation process.

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

Finally, Mr. McKay closed his report with appreciation to the 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 reviewed the Compliance Questionnaire developed by staff as part of the financial audit currently in process. The committee also reviewed the proposed memorandum of understanding (MOU) with the federal Food & Drug Administration (FDA) relative to the distribution of compounded human drug products by pharmacies. The committee reviewed a regulatory proposal relative to the creation of a controlled dangerous substance license for hemp facilities. Finally, the committee reviewed a revised proposal from Metrc relative to the Louisiana Medical Marijuana Tracking System (LMMTS). He indicated Mr. McKay was prepared to offer motions on behalf of the committee.

Mr. Aron reported staff had developed the compliance questionnaire required as part of the annual financial audit. Mr. McKay then moved,

Resolved, to approve the *Compliance Questionnaire for the 2020 Financial Audit*.

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

Mr. Aron reported the committee had voted to recommend the approval of the pending MOU with the FDA. Mr. McKay moved,

Resolved, to authorize the Louisiana Board of Pharmacy to enter into the *Memorandum of Understanding Addressing Certain Distributions of Compounded Human Drug Products with the U.S. Food and Drug Administration*.

During the discussion, a question arose as to the potential burden of the required data collection and whether that burden should be borne by the Board's compliance officers or the pharmacies engaged in the compounding activity. Mr. Aron suggested the Regulation Revision Committee should review the matter and determine whether a regulatory proposal should be developed. Mr. McKay withdrew his motion, and Mr. Aron referred the MOU to the Regulation Revision Committee.

Mr. Aron reminded the members of the recent legislation creating the statewide agricultural hemp industry. Hemp growers need to test their crop materials to ensure the plants do not contain an impermissible level of tetrahydrocannabinol. The federal legislation on this topic requires the hemp grower to obtain a federal DEA registration. In order to qualify for the DEA registration, the hemp grower must first obtain a state controlled substance license. Mr. Aron indicated the Regulation Revision committee had preliminary discussion with a stakeholder but additional clarification was necessary. Since that discussion, the legislature revised the industrial hemp law in the 2020 legislative session. Staff then worked with the Dept. of

Agriculture & Forestry as well as the Dept. of Health and other stakeholders to draft a regulatory proposal to create a classification of CDS license for hemp growers and other stakeholders in that industry. Mr. Aron reported the Executive Committee reviewed Draft #2 and requested some minor changes and then voted to recommend the approval of Draft #3. Mr. McKay then moved,

Resolved, to approve *Regulatory Proposal 2020-D ~ CDS License for Hemp Facility (Draft #3)*, and further, to authorize the Executive Director to promulgate the proposed rule change upon the instruction of the President, and further, to authorize the President to approve acceptable amendments as may become necessary during the promulgation process.

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

Mr. Aron reminded the members of their previous discussion of the Board's cost to access the Louisiana Medical Marijuana Tracking System (LMMTS). He reported staff reached out to the vendor, Metrc, to inform them the Board was not amenable to paying the same price as the previous year. Mr. Aron reported receipt of a new proposal from Metrc with a significant price reduction. Mr. McKay then moved,

Resolved, to renew the agreement with Metrc relative to Board access to the Louisiana Medical Marijuana Tracking System (LMMTS) for Fiscal Year 2020-2021 in an amount not to exceed \$1,200.

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

Finally, Mr. Aron reported the committee discussed a staff report about the distribution of pharmacist wall certificates as well as pharmacist gold certificates. Since the public health emergency has prevented physical meetings, the members have not been able to personally sign the certificates. Therefore, staff have not been able to distribute those certificates in a timely manner. The committee authorized staff to pursue the commercial printing of the certificates with digital duplicates of the members' signatures.

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

10. Staff Reports

J. Report of Assistant Executive Director

Mr. Aron 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. He called their attention to a new portion of the report detailing information on marijuana products dispensed in marijuana pharmacies. The members expressed appreciation for the patient-based dispensing volume information. Mr. Broussard reminded the members of the changes to the marijuana program adopted by the 2020 Legislature and suggested the Board continue to collect

that patient-based information using the expanded diagnosis and physician parameters in the 2020 legislation for approximately one year and then begin the process to issue the tenth and final marijuana pharmacy permit.

Mr. Fontenot then directed the members to the requests from 31 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.008124-HOS – Acadian Medical Center Pharmacy (LA);
- > PHY.008076-HOS – Alexandria Emergency Hospital (LA);
- > PHY.008104-NR – AxivaRx of Kansas (KS);
- > PHY.008095-NR – Biologics by McKesson (NC);
- > PHY.008096-NR – Biologics by McKesson (NC);
- > PHY.004451-NR – BioScrip Pharmacy Services (OH);
- > PHY.008082-NR – Buy-Rite Drugs (AL);
- > PHY.008058-NR – Cottrill’s Pharmacy (NY)
- > PHY.003542-RC – DCS-NO Pharmacy (LA);
- > PHY.006269-RC – DCS-NO Pharmacy (LA);
- > PHY.007403-RC – DCS-NO Pharmacy (LA);
- > PHY.006270-RC – DCS-NO Pharmacy (LA);
- > PHY.006841-RC – DCS-NO Pharmacy (LA);
- > PHY.008092-NR – Deliverit Pharmacy Infusion Center (TX);
- > PHY.005274-IR – Diabetes Mgt & Supplies Pharmacy (LA);
- > PHY.008044-NR – Empower Pharmacy (TX);
- > PHY.007530-NR – HCP Pharmacy (TX);
- > PHY.008087-NR – Healix Infusion Therapy (TX);
- > PHY.008049-NR – Holistic Pharmacy Service (TX);
- > PHY.005985-NR – Home Med Pharmacy (IN);
- > PHY.008075-NR – Humana Pharmacy (OH);
- > PHY.008086-NR – Humana Pharmacy (AZ);
- > PHY.008112-NR – Kroger Specialty Infusion (AL);
- > PHY.008097-NR – MedWiseRx (AZ);
- > PHY.008038-SAT – Ochsner LSU Health Shreveport (LA);
- > PHY.008045-NR – PipelineRx (SC);
- > PHY.008070-NR – Premier Specialty Infusion (IL);
- > PHY.008106-NR – Simple Rx Pharmacy (TX);
- > PHY.008098-NR – Sortpak Pharmacy (CA);
- > PHY.008103-NR – Tulip Pharmacy (TX); and
- > PHY.008105-NR – Watson Rx Solutions (AL)

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 roll call vote in the affirmative.

Mr. Fontenot reviewed a reminder notice recently distributed to all pharmacies relative to the requirement to report all butalbital dispensing to the state prescription monitoring program. The notice addressed the

confusion that apparently existed among some pharmacies that only some butalbital dispensing was reportable. The notice reminded pharmacies that all butalbital products in Louisiana are classified as controlled substances or drugs of concern; there are no butalbital products that are not one or the other. Since both controlled substances and drugs of concern are reportable, then all butalbital dispensing is reportable.

Mr. Fontenot then addressed another area of confusion among some pharmacies relative to the reporting of certain veterinary prescriptions, more particularly including the owner's information as well as species codes in their reports to the state prescription monitoring program.

Finally, Mr. Fontenot indicated completion of his report.

K. Report of General Counsel

Mr. Aron called upon Mr. Finalet for his report. Mr. Finalet informed the members he had developed proposed voluntary consent agreements using criteria previously approved by the Board's Violations Committee and then offered them to various respondents. He then presented eight proposed voluntary consent agreements which had been accepted and signed by the respondents. Mr. McKay moved to accept all eight of the proposed voluntary consent agreements presented by Mr. Finalet. There were no member questions or public comments. The motion was adopted after a unanimous roll call vote in the affirmative. The consent agreements approved by the Board are itemized here:

Anh Thi Phuong Tran (PST.022162): The Board accepted the voluntary surrender, resulting in the active suspension of the license for an indefinite period of time effective June 23, 2020.

Tabitha Danielle Hatfield (CPT.012189): The Board revoked the certificate effective June 23, 2020, and further, permanently prohibited the acceptance of any future reinstatement application or any other application for any credential issued by the Board.

Folse Pharmacy, Inc. d/b/a Folse Pharmacy [Marrero, LA] (CDS.038941-PHY): The Board accepted the voluntary surrender, resulting in the active suspension of the CDS license for an indefinite period of time effective June 25, 2020.

Patience Marie Viator Bergeron (PST.019238): The Board accepted the voluntary surrender, resulting in the active suspension of the license for an indefinite period of time effective June 26, 2020.

Cindy Stevens Rodrigue (CPT.001884): The Board revoked the certificate effective June 29, 2020, and further, permanently prohibited the acceptance of any future reinstatement application or any other application for any credential issued by the Board.

Jasmine Noell Foster (CPT.009162): The Board revoked the certificate effective July 22, 2020, and further, permanently prohibited the acceptance of any future reinstatement application or any other application for any credential issued by the Board.

Melissa Williams Richardson (PST.016774): The Board accepted the voluntary surrender, resulting in the active suspension of the license for an indefinite period of time effective July 28, 2020.

Brianna Arianna Brown (CPT.013373): The Board issued a Letter of Reprimand, and further, assessed a fine of \$250 plus administrative costs.

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
 - Annual Statistical Report
 - External Reports
 - Administrative and Legislative Agency Reports
 - Annual Report

Mr. Aron reminded the members the board's annual report is required to be distributed to the Governor's office as well as the legislative oversight committees, but that board approval is required to complete that process.

Mr. Pitre then moved,

Resolved, to approve the Board's *Annual Report for Fiscal Year 2019-2020*, and further, to direct the Executive Director to submit the report to the Office of the Governor as well as the House and Senate Committees on Health & Welfare, and then to publish the report on the Board's website.

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

- Examinations
 - MPJE

NAPLEX
ExCPT
PTCE

- Operations
 - Credentials Division
 - Compliance Division
 - Administrative Division
 - Marijuana Pharmacies
- 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. Request for Opinion: Delivery of Dispensed Prescriptions to Lockers for Employees

Mr. Aron reminded the members the petitioner had withdrawn their request

12. New Agenda Items Added During Meeting

No items were added to the agenda.

13. Announcements

Mr. Aron directed the members to the announcements in their meeting binder. He announced the next regular meeting of the Board would be held in November.

14. Adjourn

Having completed the tasks itemized on the posted agenda, with no further business pending before the Board, and without objection, Mr. Aron adjourned the meeting at 2:10 p.m.

Minutes prepared by Malcolm Broussard

These minutes were approved by the Board during its meeting on November 18, 2020.

Richard M. Indovina, Jr.
Secretary