



Louisiana Board of Pharmacy

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Minutes

Regular Meeting

Wednesday, August 6, 2014 at 9:00 a.m.

Louisiana Board of Pharmacy
3388 Brentwood Drive
Baton Rouge, Louisiana 70809-1700

Administrative Hearing

Thursday, August 7, 2014 at 8:30 a.m.

Louisiana Board of Pharmacy
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A regular meeting of the Louisiana Board of Pharmacy was held on Wednesday, August 6, 2014 in the Boardroom of the Board's office, located at 3388 Brentwood Drive in Baton Rouge, Louisiana. The meeting was held pursuant to public notice, each member received notice, and notice was properly posted.

1. Call to Order

Mr. Carl Aron, President, called the meeting to order at 9:10 a.m.

2. Invocation & Pledge

Mr. Aron called upon Mr. Brian Bond, and he delivered the invocation. Mr. Richard Soileau then led the group in the recitation of the Pledge of Allegiance.

3. Quorum Call

Mr. Aron then called upon the Secretary, Mr. Bond, to call the roll.

Members Present:

Mr. Carl W. Aron
Mr. Brian A. Bond
Mr. Ryan M. Dartez
Ms. Jacqueline L. Hall
Mr. Richard M. Indovina
Mr. Marty R. McKay
Ms. Chris B. Melancon
Ms. Diane G. Milano
Mr. Ronald E. Moore
Mr. Blake P. Pitre
Mr. T. Morris Rabb
Ms. Pamela G. Reed
Mr. Don L. Resweber *(late arrival)*
Dr. Deborah H. Simonson
Mr. Richard A. Soileau
Mr. Rhonny K. Valentine

Members Absent:

Mr. Clovis S. Burch

Staff Present:

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

Guests:

Mr. Joseph Adams – National Association of Boards of Pharmacy
Mr. Kevin LaGrange – Professional Arts Pharmacy
Ms. Rosamaend Oglesbee – CVS Pharmacies
Mr. Nick Cahanin – NACDS
Mr. Clark Cosse – La. Hospital Association

Ms. Crystal Carter – La. Pharmacists Association
Mr. David Ruckman – Target Pharmacies
Mr. Bryan Jones – LifePoint Hospitals
Mr. Ronald Rome
Ms. Elizabeth Lankford – HDMA
Ms. Angelle Huff – The Wellness Corner
Mr. Max Huff – The Wellness Corner
Mr. Brad Reed – Wal-Mart Pharmacies
Ms. Linda Spradley – Spradley & Spradley
Mr. Irby Bourque
Mr. Bud Courson – Courson Nickel
Ms. Penny Scruggins – Kolder, Champagne, Slaven & Co.
Mr. Russell Champagne – Kolder, Champagne, Slaven & Co.
Mr. Pete Chambliss
Mr. Lyle Bulger
Mr. Danny Donato – Omnicare Pharmacies

Mr. Bond certified 15 of the 17 members were present, constituting a quorum for the conduct of official business.

4. Call for Additional Agenda Items

Mr. Aron asked if there were any additional agenda items, but none were offered. With no requests for any additions, and without objection, the Board adopted the posted agenda for that meeting. Mr. Aron then requested authority from the Board to reorder the agenda as necessary for the purpose of adjusting the sequence of various reports or guests. There were no objections to that request.

5. Consideration of Minutes

Mr. Aron reminded the members they had received the draft minutes from the Regular Board Meeting on May 7, 2014 which was held in Baton Rouge, Louisiana. With no objections, he waived the reading thereof. Hearing no requests for amendment or any objection to their approval, Mr. Aron declared the minutes were approved as presented. Mr. Bond reminded the members to sign the Minute Book.

6. Report on Action Items

Mr. Broussard reminded the members of their four rulemaking projects underway at that time. He reported on the progress and status of each of those initiatives.

7. Confirmation of Acts

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

Resolved, that the actions taken and decisions made by the Board officers, Board committees, and Executive Director in the general conduct and transactions of Board business since May 7, 2014 are approved, adopted, and ratified by the entire Board.

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

8. *Opportunity for Public Comment*

Mr. Aron reminded the members and guests the Open Meetings Law requires all public bodies to provide an opportunity for public comment at all meetings and for each agenda item upon which a vote is to be taken. He solicited general comments on non-agenda items from the guests present, and no comments were offered.

Statement of Purpose

Mr. Aron reminded the members of the purpose and mission of the Board of Pharmacy by reciting the relevant portion of the Louisiana Pharmacy Practice Act. He urged the members to keep their mission in mind as they considered all the matters before them.

Before moving to the formal agenda items, Mr. Aron indicated he wished to take a moment on personal privilege for the following announcements:

- He reminded the members and guests that five of the member positions were slated for expiration the previous month. He then announced the governor had recently re-appointed all five of the incumbents to another six year term: Mr. Indovina for District 1, Ms. Hall for District 2, Mr. Soileau for District 3, Mr. Moore for District 6, and himself for District 5. The rest of the members and the guests congratulated the appointees with a round of applause.
- He recognized former member Mr. Joseph Adams and his wife Tina in the audience, congratulating Mr. Adams on his current position as President of the National Association of Boards of Pharmacy (NABP).
- He informed the members Mr. Soileau was celebrating his birthday by attending the meeting, and the members feted him with the birthday song.

At this point, Mr. Aron indicated he would re-order the sequence of various reports in order to accommodate certain guests.

9. *Committee Reports*

D. Violations Committee

Mr. Aron called upon Mr. Bond for the committee report. Mr. Bond reported the committee held an informal conference on June 4 to consider their posted agenda which included 13 cases: 4 pharmacists, 4 pharmacy technicians, 4 pharmacy permits, and one pharmacy technician candidate. Following their interviews and deliberations, the committee took no action on 8 of the 13 cases. He then presented the following proposed voluntary consent agreements for their consideration.

Walgreen Louisiana Co., Inc. d/b/a Walgreen Pharmacy No. 07083

(PHY.005320) Mr. Bond moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board assessed the permit owner a fine of \$10,000 plus administrative and investigative costs.

Community Pharmacy #1, Inc. d/b/a Community Pharmacy #1

(PHY.002908) Mr. Bond moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the

affirmative. The Board revoked the permit effective March 18, 2014.

Mona Patrice Carter (PST.014953) Mr. Bond moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board accepted the voluntary surrender of her credential, resulting in the active suspension of the license for an indefinite period of time effective June 4, 2014, and further, the Board imposed a lifetime restriction on holding any ownership interest in any pharmacy licensed by the Board.

Louis Charles Gambina (PST.011145) Mr. Bond moved to approve the proposed non-disciplinary modification of a previous order. The motion was adopted after a unanimous vote in the affirmative.

Shantelle Dionne Payton (CPT.010037) Mr. Bond moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board accepted the voluntary surrender of her credential, resulting in the active suspension of the certificate for an indefinite period of time effective June 4, 2014.

Mr. Bond reported the committee will meet on September 10-11 to consider that docket, which included 9 pharmacists, 2 pharmacy technicians, one pharmacy technician candidate, 19 pharmacy permits, and one applicant for a pharmacy permit.

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

10. *Staff Reports*

K. Report of General Counsel

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

Advanced Pharmacy, LLC d/b/a Advanced Pharmacy (PHY.006472) Mr. Pitre moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board issued a Letter of Warning, and further, assessed the permit owner a fine of \$10,000 plus administrative costs.

Transition Pharmacy, LLC d/b/a Transition Pharmacy (PHY.006813) Mr. Rabb moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board issued a Letter of Warning, and further, assessed the permit owner a fine of \$5,000 plus administrative costs.

Velva Boles (CDS.024112-MD) Ms. Melancon moved to suspend the license for an indefinite period of time, based on the revocation of her medical license by the La. State Board of Medical Examiners. The motion was

adopted after a unanimous vote in the affirmative. The Board suspended the license for an indefinite period of time effective April 14, 2014.

Rafael Orlando Robledo (CDS.039898-MD) Ms. Melancon moved to suspend the license for an indefinite period of time, based on the voluntary surrender of his federal registration to the U.S. Drug Enforcement Administration. The motion was adopted after a unanimous vote in the affirmative. The Board suspended the license for an indefinite period of time effective April 28, 2014.

James Edward Hines, III (CDS.033895-MD) Ms. Melancon moved to suspend the license for an indefinite period of time, based on the voluntary surrender of his federal registration to the U.S. Drug Enforcement Administration. The motion was adopted after a unanimous vote in the affirmative. The Board suspended the license for an indefinite period of time effective May 20, 2014.

Sidney Joseph Dupuy, III (CDS.001317-MD) Ms. Melancon moved to suspend the license for an indefinite period of time, based on the voluntary surrender of his federal registration to the U.S. Drug Enforcement Administration. The motion was adopted after a unanimous vote in the affirmative. The Board suspended the license for an indefinite period of time effective June 10, 2014.

Peter Randall Galvan (CDS.021410-MD) Ms. Melancon moved to suspend the license for an indefinite period of time, based on the suspension of his medical license for an indefinite period of time by the La. State Board of Medical Examiners. The motion was adopted after a unanimous vote in the affirmative. The Board suspended the license for an indefinite period of time effective May 19, 2014.

Lana Geannie Ford (Savell) (CPT.010235) Mr. Rabb moved to accept the voluntary surrender of the credential. The motion was adopted after a unanimous vote in the affirmative. The Board accepted the voluntary surrender, resulting in the active suspension of the certificate for an indefinite period of time effective August 5, 2014.

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

9. *Committee Reports*

B. Application Review Committee

Mr. Aron called upon Mr. Soileau for the committee report. Mr. Soileau reported the committee met on July 10 to consider three referrals from the staff. Following the committee's interviews and deliberations, they authorized the issuance of two credentials without restriction. He then reported the following file to the members for their consideration.

Spencer Landis Gauthreaux (Applicant for CDTM Registration) Mr. Soileau moved to issue the registration without restriction. The motion was adopted after a unanimous vote in the affirmative. The Board issued the registration without restriction.

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

At this point, Mr. Aron re-ordered the agenda to accommodate certain guests.

11. Petition for Advisory Opinion or Declaratory Statement – Ms. Angelle Huff & The Wellness Corner

Mr. Aron recognized Ms. Angelle Huff and her attorney, Mr. Karl Koch, and they approached the witness table. Mr. Aron informed the members the Executive Committee had met the previous evening to review an initial draft of a declaratory statement prepared by staff and recommended revisions before voting to recommend the approval of the second draft. Mr. Aron requested a hard copy be provided to Mr. Koch and Ms. Huff, and then directed the members to a copy in their electronic meeting binder. He then requested Mr. Broussard to review the circumstances surrounding the petition, and then to review the document in detail. Following the explanation, Mr. McKay moved,

Resolved, that the Board approve the proposed Declaratory Statement – Medication Therapy Management in the Practice of Pharmacy as recommended by the Executive Committee. During the discussion, the members agreed by consensus to an editorial formatting revision. Mr. McKay then moved to amend the original proposal by deleting lines 122 through 128. The motion to amend was adopted after a unanimous vote in the affirmative.

The motion to approve the amended statement was adopted after a unanimous vote in the affirmative.

** Special Order of the Day – Presentation of Pharmacist Gold Certificate*

Mr. Aron informed the members the Board had issued new licenses to 85 pharmacists during Calendar Year 1964 and that 26 of those had maintained their licensure for fifty continuous years, thus qualifying for a Pharmacist Gold Certificate. He reminded the members that recipients were free to choose how they wished to receive the certificate, and further, that four of the 26 had requested to receive their certificates during that Board meeting. He then presented the Pharmacist Gold Certificate to the following pharmacists, expressing the Board's appreciation for their years of service to the public and the profession of pharmacy:

- PST.008850 – Irby R. Bourque
- PST.008889 – Lyle Joseph Bulger
- PST.008898 – Ronald Joseph Rome
- PST.008925 – Thomas Joseph “Pete” Chambliss

Each recipient offered brief remarks, and the members and guests present congratulated each of them with standing ovations.

* *Special Order of the Day – Presentation of Distinguished Service Award*

Mr. Aron then recognized Mr. Joseph Adams, a former member of the Board and currently serving as President of the National Association of Boards of Pharmacy. Mr. Aron noted that this was the Board's first opportunity to formally recognize his years of service to the Board from 2000-2013. He then presented the service award to Mr. Adams. The members and guests present congratulated him with a standing ovation.

At this point, Mr. Aron declared a brief recess. It was noted the members recessed at 10:30 am and then reconvened at 10:55 am. Mr. Aron then resumed the sequence of the posted agenda.

9. *Committee Reports*

A. *Finance Committee*

Mr. Aron recognized Mr. Russell Champagne, CPA, from Kolder, Champagne, Slaven & Co. for his presentation of the final report from the previous fiscal year. Mr. Champagne directed the members to the copy of the report in their meeting binder. He reviewed the report and responded to questions from the members. Mr. Pitre noted the committee had met the previous day to review the report; he then moved,

Resolved, that the Board accept the *Final Report for Fiscal Year 2013-2014*, subject to legislative audit.

The motion was adopted after a unanimous vote in the affirmative. Mr. Pitre then directed the members to a proposal to amend the budget for the current fiscal year. He noted the committee had met the previous day to review the staff recommendations; he then moved.

Resolved, that the Board approve the *Proposed Budget Amendment No. 1 for Fiscal Year 2014-2015*.

The motion was adopted after a unanimous vote in the affirmative. Mr. Aron expressed his appreciation to Mr Champagne for his continued service as a financial advisor to the Board.

Finally, Mr. Pitre expressed his appreciation to the other members of the committee for their work the previous day.

C. *Reciprocity Committee*

Mr. Aron called upon Ms. Hall for the committee report. She reported the staff had evaluated 35 applications for pharmacist licensure by reciprocity and that none of them contained information that warranted a committee-level review. Therefore, the committee had not met since the previous board meeting. In conformance with policies and procedures previously approved by the Board, the staff approved the applications and issued the credentials.

E. *Impairment Committee*

Mr. Aron called upon Mr. Rabb for the committee report. Mr. Rabb reported the committee met the previous day to consider nine referrals from staff. Following interviews and deliberations, the committee disposed of two cases without the necessity of further Board action. Mr. Rabb then presented the following files for Board action.

Beverly Ann West (PST.016651) Mr. Rabb moved to accept the voluntary surrender of the credential. The motion was adopted after a unanimous vote in the affirmative. The Board accepted the voluntary surrender, resulting in active suspension of the license for an indefinite period of time effective May 12, 2014.

Matthew Marston Lane (PST.018065) Mr. Rabb moved to deny the request for the reinstatement of the previously suspended license. The motion was adopted after a unanimous vote in the affirmative. The Board denied the request for reinstatement of the previously suspended license, and further, conditioned the acceptance of any future reinstatement application upon the satisfaction of certain requirements identified in the order.

Sharron Renee Barnes Michael (PST.017155) Mr. Rabb moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board granted the respondent's request for reinstatement of the previously suspended license, converted the duration of the suspensive period from an indefinite term to a term of 15 years and suspended the execution of the suspension, then placed the license on probation for 15 years, effective August 6, 2014, subject to certain terms enumerated in the consent agreement.

Donald Wayne Crawley (PST.010199) Mr. Rabb moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board granted the respondent's request for reinstatement of the previously suspended license, converted the duration of the suspensive period from an indefinite term to a term of five years and suspended the execution of the suspension, then placed the license on probation for five years, effective August 6, 2014, subject to certain terms enumerated in the consent agreement.

Jason Conrad Dove (PST.015811) Mr. Rabb moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board granted the respondent's request for reinstatement of the previously suspended license, contingent upon the satisfaction of certain requirements identified in the order, then converted the duration of the suspensive period from an indefinite term to a term of 15 years and suspended the execution of the suspension, then placed the license and any other interim credential on probation for 15 years, effective August 6, 2014.

Paul Ryan Lemaire (PST.018503) Mr. Rabb moved to approve the probation modification request. The motion was adopted after a unanimous vote in the affirmative. The Board granted the respondent's request to remove the term of probation that prohibited him from accepting an appointment as the pharmacist-in-charge of a pharmacy, and further, left all other terms of

probation in effect.

Ginger Allen Teekell (PST.016606) Mr. Rabb moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board ordered the active suspension of the license for a 15-day period beginning on September 1, 2014, and thereafter ordered the continuation of the probationary period imposed in her previous order from February 1, 2012.

Finally, Mr. Rabb closed his report with appreciation to his fellow committee members for their work the previous day and for the ongoing staff support.

F. Reinstatement Committee

Mr. Aron called upon Ms. Melancon for the committee report. She reported the committee had met earlier that day to consider four referrals from the staff. She then presented the following files for Board action.

Torey Elizabeth Daigle Bonin (CPT.004830) Ms. Melancon moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board granted the respondent's request for reinstatement of the previously lapsed certificate, contingent upon the satisfaction of certain conditions identified in the consent agreement.

Donna Fragala White (PST.013041) Ms. Melancon moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board granted the respondent's request for reinstatement of the previously lapsed license, contingent upon the satisfaction of certain conditions identified in the consent agreement.

John Phillip McIntyre (PST.011242) Ms. Melancon moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board granted the respondent's request for reinstatement of the previously lapsed license, contingent upon the satisfaction of certain conditions identified in the consent agreement.

Dorian Edward Dunmiles (CPT.006836) Ms. Melancon moved to approve the proposed voluntary consent agreement. The motion was adopted after a unanimous vote in the affirmative. The Board granted the respondent's request for reinstatement of the previously lapsed certificate, contingent upon the satisfaction of certain conditions identified in the consent agreement.

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

G. Tripartite Committee

Mr. Aron noted the committee had not met since the last Board meeting.

I. Executive Committee

Mr. Aron informed the members the committee had met the previous day to consider the matters on their posted agenda. He noted the committee spent most of their time on the proposed Declaratory Statement which the Board had just approved. He also informed the members the staff had made progress on a new basic inspection form to be used. Mr. Broussard indicated when the new form was ready he would circulate it to the members for any feedback before placing the form in use.

Finally, Mr. Aron completed his report with appreciation to his fellow officers for their ongoing efforts.

At this point, Mr. Aron declared a luncheon recess. It was noted the members recessed at 11:40 am and then reconvened in open session at 12:25 pm.

9. Committee Reports

H. Regulation Revision Committee

Mr. Aron called upon Mr. McKay for the committee report. He reported the committee met in July and that the committee had voted to recommend the approval of two new regulatory proposals as well as a proposal for a pilot project. Prior to considering those, he suggested reviewing the comments and testimony offered during the July 28 public hearing.

Mr. McKay directed the members to the meeting binder containing a summary of the comments and testimony offered during the July 28 public hearing concerning Regulatory Project 2014-5 ~ Prescriptions. He noted the letter received from NACDS after the deadline for receipt of comments, and in particular, he noted the two requests for suggested changes to the original proposal. Following some discussion, Mr. McKay moved to reject the first suggested change to §2511.C.4. The motion was adopted after a unanimous vote in the affirmative. Following additional discussion, Mr. McKay suggested the propriety of accepting some of the second set of revisions suggested by NACDS, and he moved,

Resolved, on consideration of the public comments and testimony, the Board authorizes the amendment of the original proposal by amending §2511.E.2 to read as follows:

“The pharmacist shall not select an equivalent drug product when the prescriber indicates “Dispense as Written”, “DAW”, or “Brand Medically Necessary” and transmits his electronic signature. Otherwise, the pharmacist may select an equivalent drug product, provided the patient has been informed of, and consents to, the proposed cost saving interchange.”;

and further, authorize staff to respond to the public commentators in the manner directed by the Board, and further, to submit the proposed revisions to the original proposal for publication in the

State Register, and to schedule a public hearing on the proposed revisions.

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

Mr. McKay reminded the members of their past work on the issue of pharmacy compounding, beginning with the New England Compounding Center (NECC) tragedy in late 2012. He reported the committee had completed its work on a revision to the Board's compounding rules at about the same time the US Congress adopted the new federal legislation. Staff had suggested a delay until the FDA issued its final guidance to compounding pharmacies, which was recently released. He then moved,

Resolved, to approve Regulatory Proposal 2014-C ~ Compounding (Draft #4), and further, to authorize the Executive Director to promulgate the proposed rule amendments upon the instruction of the President, and further, to authorize the President to approve acceptable amendments as may become necessary during the promulgation process.

The motion was adopted after a unanimous vote in the affirmative. Mr. McKay then reminded the members the Emergency Rule first adopted in January 2013 had been re-published continuously since then but had recently expired on August 2. With the expiration of the Emergency Rule, that left the Board's current rule, which contains no limits on the compounding of preparations for office use, in effect. He suggested the potential for some pharmacists to believe they had authority to resume unlimited compounding for office use under the state rule even though the more stringent federal law prohibits such activity. Given the potential hazard to public health from unlimited compounding for office use, he suggested the propriety of declaring an emergency and then adopting the proposed revision just adopted as a new emergency rule. He then moved,

Resolved, to approve the Declaration of Emergency ~ Pharmacy Compounding.

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

Resolved, to approve Regulatory Proposal 2014-C ~ Compounding (Draft #4), to become effective as an **Emergency Rule** effective August 8, 2014, and further, to authorize the Executive Director to re-publish this Emergency Rule as may become necessary during the promulgation process.

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

Mr. McKay reminded the members of the request from the Louisiana Dental Association (LDA) during the Board's previous meeting to develop a special event pharmacy permit to assist the LDA during a planned medical mission event scheduled for February 2015 in New Orleans. Mr. McKay reported staff had developed a proposal that appeared to address those needs as well as several other types of potential events that need a pharmacy permit for a short period of time. The committee voted to recommend the approval of the proposal. Therefore, he moved,

Resolved, to approve Regulatory Proposal 2014-D ~ Special Event

Pharmacy Permit (Draft #1), and further, to authorize the Executive Director to promulgate the proposed rule amendments upon the instruction of the President, and further, to authorize the President to approve acceptable amendments as may become necessary during the promulgation process.

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

Mr. McKay then reported on the committee's development of a pilot project relative to the processing of medical orders by pharmacists working at small hospitals that would allow such processing to be performed from the pharmacists' homes in lieu of requiring such processing to be performed by remote processors. The proposal for the pilot project described the facilities eligible to participate in the project as those small facilities with an average census of less than 25, and further, specifically identified the first ten facilities who had agreed to participate in the project. The proposal identified the operational requirements for the project, including the data to be collected. Mr. McKay then moved,

Resolved, to approve the proposed *Pilot Project – Remote Processing of Medical Orders in Small Hospitals*. During the discussion, the members voted to amend the proposal to remove some specific time frames in favor of more general language.

The motion for approval of the amended proposal was adopted after a unanimous vote in the affirmative.

Finally, Mr. McKay concluded his report with appreciation to the other committee members for their ongoing efforts as well as for the staff support.

At this point, Mr. Aron re-ordered the agenda to return to the staff reports.

10. Staff Reports

J. Prescription Monitoring Program

He reminded the members about the 2009 change in the PMP law that authorized the Board to issue waivers to the duty to report data to the program. He then directed the members to a list of 31 pharmacies requesting such a waiver. Mr. McKay moved,

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

- > PHY.006888-NR – Andover Group (TN);
- > PHY.005646-NR – Bet Pharm (KY);
- > PHY.006901-NU – Cardinal Health – Lafayette (LA);
- > PHY.005019-NRN – Cardinal Health – Flowood (MS);
- > PHY.005028-NU – Cardinal Health – New Orleans (LA);
- > PHY.002789-NU – Cardinal Health – West Monroe (LA);
- > PHY.006897-NU – Cardinal Health – Baton Rouge (LA);
- > PHY.006895-NU – Cardinal Health – Shreveport (LA);
- > PHY.006917-NU – Cardinal Health – Houma (LA);
- > PHY.006696-NRN – Cardinal Health – Denver (CO);
- > PHY.006866-NR – Community Healthcare Services (CA);
- > PHY.006333-HOS – Cypress Pointe Surg Hosp – Hammond (LA)
- > PHY.006710-NR – Goodlife Pharmacy – Boca Raton (FL);

- > PHY.006887-NR – Hawkins Pharmacy (MS);
 - > PHY.005169-IR – Institutional Pharmacies of La. (LA);
 - > PHY.000624-HOS – Lafayette Gen Hosp Pharmacy (LA);
 - > PHY.000627-HOS – Lane Reg Med Ctr Pharmacy (LA);
 - > PHY.006704-NR – Liberty Medical Supply (FL);
 - > PHY.006788-HOS – LifeCare Hosp of Shreveport (LA);
 - > PHY.006797-HOS – Longleaf Hosp Pharmacy (LA);
 - > PHY.006258-NR – Meds for Vets (UT);
 - > PHY.006380-HOS – NorthShore Spec Hosp Pharmacy (LA);
 - > PHY.006912-HOS – Park Place Surgical Hospital (LA);
 - > PHY.006739-NR – Physician Choice Pharmacy (FL);
 - > PHY.006374-NU – Pioneer Pharmacy (TX);
 - > PHY.006716-HOS – Post Acute Spec Hosp of Hammond (LA);
 - > PHY.006753-HOS – Post Acute Spec Hosp of Lafayette (LA);
 - > PHY.000194-HOS – Riverland Med Ctr Pharmacy (LA);
 - > PHY.006614-NR – Sinus Dynamics Pharmacy (CA);
 - > PHY.006892-NR – SmartPractice Allergan Bank (AZ); and
 - > PHY.006713-HOS – W. O. Moss Memorial Health Clinic (LA)
- once they have executed the standard consent agreement for that purpose.

The motion was adopted after a unanimous vote in the affirmative. Mr. Fontenot then reported three pharmacies who had previously obtained waivers from the Board had subsequently undergone a change of ownership but maintained similar professional practice patterns and had applied for waivers. He recommended their approval to the Board. Mr. McKay then moved,

- Resolved**, to authorize the issuance of PMP reporting waivers to:
- > PHY.006908-NR – Fresenius Medical Care North America (SC);
 - > PHY.006939-NR – Fresenius Medical Care North America (TX);
- and
- > PHY.001090-HOS – Terrebonne General Medical Center (LA),
- once they have executed the standard consent agreement for that purpose.

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

Mr. Fontenot then reported on the technical adjustments being made by the program vendor to implement the recent rule changes relative to the shorter deadline for reporting transactions to the database as well as the appointment of delegates by prescribers and dispensers. Finally, he referred the members to the recently-released Annual Report for the usual metrics on prescription transactions and queries to the PMP database.

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

At this point, Mr. Aron declared a brief recess. It was noted the members recessed at 2:30 pm and then reconvened in open session at 2:55 pm.

L. Report of Executive Director

Mr. Aron called upon Mr. Broussard for the report. Mr. Broussard directed

the members to his report which was posted in the Boardroom Library prior to the meeting; it was also included in the meeting binder. He reviewed the following topics:

- Meeting Activity
- Reports

Census Reports – Credentials & Compliance Divisions
Production Reports – Credentials Division
Exceptions Report
Compliance Division Statistical Summary
Annual Report

Mr. McKay moved,

Resolved, to approve the 2014 Annual Report, and further, to authorize the Executive Director to send a copy to the Office of the Governor, and further, to post a copy on the Board's website.

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

- Examinations

MPJE
NAPLEX
PARE
PTCB

- Operations

Credentials Division
Compliance Division
Administrative Division

Mr. McKay moved,

Resolved, to approve the Louisiana Compliance Questionnaire for 2014, and further, to authorize the President and Secretary to execute the document for the Board.

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

Resolved, to approve the June 2014 Roster of Colleges & Schools of Pharmacy for Fiscal Year 2014-2015.

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

- State Activities

2014 Legislature

Mr. Broussard reviewed the Final Brief of the 2014 Legislative Session which detailed the successful legislation from the session. The Board took formal notice of all the items reported in the Final Brief. Mr. Broussard reported on the communications sent to all of its licensees about the measures. Finally, he suggested referrals of some items to the Board's Regulation Revision Committee for their

consideration of potential rule changes to comply with the new legislation. Mr. Aron referred the following items to the Regulation Revision Committee:

- Act 442 – relative to the Louisiana Telehealth Access Act.
- Act 865 – relative to changes in the expiration date of prescriptions for controlled substances listed in Schedule II.
- Act 472 – relative to changes in the reporting deadline for dispensers reporting transactions to the PMP database.

Dept. of Health & Hospitals

Mr. Broussard reported one of the legislative items from the 2014 session was a study resolution directing DHH to establish a working group to develop strategies to decrease primary care utilization in emergency rooms across the state. He indicated DHH had requested assistance from the Board of Pharmacy relative to the PMP program. Several of the strategies being developed relate to reducing use of emergency rooms to access controlled substances. He reported one of the group's first deliverables is a guideline document encouraging emergency rooms to decrease the amount of controlled substances prescribed in emergency rooms, including encouraging greater use of the PMP database prior to prescribing controlled substances. He reported the group had scheduled a vote on the guideline document at their next meeting and requested either an approval or endorsement from all of the working group members. Mr. McKay then moved,

Resolved, that the Board endorse the Louisiana Emergency Department Opioid Prescribing Guidelines published by the La. Dept. of Health and Hospitals.

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

- National Activities
 - National Association of Boards of Pharmacy (NABP)
 - NABP-AACP District 6 Annual Meeting
 - MALTAGON
 - U.S. Food & Drug Administration (FDA)
 - U.S. Drug Enforcement Administration (DEA)
- International Activities
 - International Pharmaceutical Federation (FIP)

12. Request for Approval of Life Safety Program – Emergency University

In the absence of any representatives at the meeting, Mr. Aron called upon Mr. Broussard, who directed the members to the materials in their meeting binders. He

provided the historical information relevant to the requests and noted the staff recommendation. Mr. McKay then moved,

Resolved, that the Board approve the life safety program for healthcare professionals (CPR Pro) as offered by Emergency University.

The motion was adopted after a unanimous vote in the affirmative. Mr. Aron directed Mr. Broussard to notify the organization of the approval and to modify the Board's relevant forms as appropriate.

13. *Announcements*

Mr. Aron directed the members to the announcements in their meeting binder. In addition, Mr. Broussard and Mr. McKay made the following recognition announcements:

> In response to a resolution adopted at their 2014 Annual Meeting, NABP established the Task Force on Standards for the Use of PMP Data. NABP President Joseph Adams appointed **Mr. Joseph Fontenot**, Assistant Executive Director of the Louisiana Board of Pharmacy, to serve as Chair of the Task Force.

> The Pharmacy Technician Accreditation Commission (PTAC), which is a collaborative effort of the Accreditation Council on Pharmacy Education (ACPE) and the American Society of Health-System Pharmacists (ASHP), has announced their inaugural slate of 12 commissioners, one of whom is **Ms. Jackie Hall**, a member of the Louisiana Board of Pharmacy since 2002.

> The American Society of Health-System Pharmacists (ASHP) bestowed Fellow recognitions (FASHP) to 28 pharmacists during their 2014 Annual Meeting, one of whom was **Mr. Morris Rabb**, a member of the Louisiana Board of Pharmacy since 1996.

> During their 2014 Annual Meeting, the Louisiana Pharmacists Association awarded its Pharmacist of the Year Award to **Mr. Carl Aron**, a member of the Louisiana Board of Pharmacy since 1971.

14. *Recess*

Having completed the tasks itemized on the posted agenda, with no further business pending before the Board, and without objection, Mr. Aron recessed the meeting at 3:55 p.m.

* * * * *

An Administrative Hearing was convened on Thursday, August 7, 2014 in the Boardroom of the Board's office, located at 3388 Brentwood Drive in Baton Rouge, Louisiana. The hearing was held pursuant to public notice, each member received notice, each respondent received notice (unless specifically stated otherwise in the official transcript), and notice was properly posted.

A. *Call to Order*

Mr. Rabb called the meeting to order at 8:30 a.m.

B. *Invocation & Pledge of Allegiance*

Mr. Rabb called upon Mr. Bond for the invocation, then Mr. Moore led the group in the recitation of the Pledge of Allegiance

C. Quorum Call

Mr. Rabb called upon Secretary Bond and he called the roll. After doing so, he certified 15 of the 17 members were present, constituting a quorum for the conduct of official business. Mr. Aron and Mr. Burch were absent.

D. Call for Additional Agenda Items

Mr. Rabb asked if there were any additional agenda items, and Mr. McKay requested the addition of one item of new business. He moved to amend the agenda by adding Immunization & Pharmacy Recordkeeping to the agenda. He noted the Board issued guidance on this topic in 2010. As noted during the meeting the previous day, the state legislature amended the immunization law, and those changes took effect on August 1. Pharmacists have been asking whether the 2010 guidance is still valid under the new law. A delay by the Board in providing guidance to immunizers could have the effect of discouraging immunizers out of compliance concerns. The motion was properly seconded, received no public comments, and was adopted after a unanimous vote in the affirmative. Mr. Rabb indicated he would schedule the discussion of the new business item following the scheduled hearings. With no requests for any further additions, and without objection, the Board adopted the posted agenda as amended for that meeting.

At his request, the members granted Mr. Rabb authority to re-order the agenda with respect to the sequence of cases, witnesses, and other items of business.

E. Opportunity for Public Comment

Mr. Rabb reminded the members and guests the Open Meetings Law requires all public bodies to provide an opportunity for public comment at all meetings and prior to the vote on each agenda item. He solicited comments from the guests, but none were offered.

Appearances

Mr. Rabb indicated his appointment of Mr. Wade Shows to serve as the Hearing Officer. Ms. Celia Cangelosi and Mr. Carlos Finalet served as Prosecuting Attorneys, Mr. Mark LaCour was the Official Recorder, and Mr. Malcolm Broussard served as the Hearing Clerk. Without objection, Mr. Rabb waived the reading of the posted agenda and instead directed the insertion thereof into these minutes. The posted agenda, as amended, is re-created here.

A G E N D A

NOTE: This agenda is tentative until 24 hours in advance of the meeting, at which time the most recent revision becomes official.

Revised 08-03-2014

- A. Call to Order
- B. Invocation & Pledge of Allegiance
- C. Quorum Call
- D. Call for Additional Agenda Items & Adoption of Agenda
- E. Opportunity for Public Comment

- F. Formal Hearings
 - 01. PHY.000077 – Robert Blake Vidrine *d/b/a*
Blake's Family Pharmacy Case No. 14-0193
 - 02. CPT.011485 – Theresa Renee' Cosby Case No. 13-0463
 - 03. CPT.009769 – Kaelynn Michael Williams Case No. 14-0063
- G. Added Item: Immunization & Pharmacy Recordkeeping
- H. Adjourn

F. Formal Hearings

Mr. Rabb called Mr. Shows to preside over the formal hearings and then joined the other members of the hearing panel.

Mr. Shows asked Ms. Cangelosi if she was prepared, and she replied in the affirmative. He then called the first case listed on the agenda.

Robert Blake Vidrine *d/b/a* Blake's Family Pharmacy (PHY.000077) Ms. Cangelosi appeared for the Board and noted the absence of the respondent or his counsel. After verifying the respondent's absence, Mr. Shows ruled the hearing would continue as scheduled in the form of a default proceeding. Ms. Cangelosi presented an opening statement, two witnesses and twelve exhibits. She then offered a closing statement, proffered proposed findings of fact, conclusions of law and board order, and then tendered the matter to the hearing panel for its consideration. Mr. Resweber moved to enter into executive session for the purpose of deliberating the disciplinary matter and discussing the respondent's professional competency. The motion was adopted after a unanimous roll call vote in the affirmative.

It was noted the hearing panel entered into executive session at 9:10 a.m. and then returned to open session at 10:00 a.m.

Ms. Hall moved,

Resolved, that the Board's hearing panel, having heard the testimony and considered the evidence, accept the Findings of Fact as proposed by the Prosecuting Attorney, modify them by amending Item 5 to correct the date of the Final Order to May 7, Item 14 to substitute the word "confirmed" for the word "learned", Item 20 to reflect his presence through his counsel, Mr. Karl Koch, Item 21 to insert the cost of \$1,162.60, and Item 22 to insert the cost of \$1,656.50, adopt the amended findings as our own, and then enter them into the hearing record.

The motion was adopted after a unanimous vote in the affirmative. Ms. Hall then moved,

Resolved, that the Board's hearing panel accept the Conclusions of Law as proposed by the Prosecuting Attorney, adopt them as

our own, and then enter them into the hearing record. The motion was adopted after a unanimous vote in the affirmative. Ms. Hall then moved,

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

It is ordered, adjudged, and decreed that the Emergency Summary Suspension order dated June 3, 2014 is hereby ratified; and further,

It is ordered, adjudged, and decreed that Louisiana Pharmacy Permit No. PHY.000077, held by Robert Blake Vidrine d/b/a Blake's Family Pharmacy shall be revoked, and further, the respondent shall pay the following assessments:

- (1) A fine of \$1,000;
- (2) The administrative hearing fee of \$250; and
- (3) The investigative and hearing costs, including the costs of the prosecuting attorney, the advisor to the hearing officer, and the official recorder; and further,

It is ordered, the acceptance of any future application for any credential issued by the Board shall be conditioned upon the satisfaction of the following terms:

- (1) Respondent shall have paid all assessments levied herein;
- (2) Respondent shall have no legal or disciplinary matters pending against him in any jurisdiction; and
- (3) Respondent shall have received a favorable recommendation for his return to the practice of pharmacy without posing a threat to the public's health, safety, or welfare pursuant to a medical evaluation from an addictionist approved by the Board.

During the discussion on the motion, Mr. McKay moved to amend the proposed order to increase the amount of the fine from \$1,000 to \$10,000. That motion to amend the amount of the fine was adopted after a unanimous vote in the affirmative. He then moved to amend the proposed order to add the Controlled Dangerous Substance License No. CDS.038544, held by the pharmacy in addition to its pharmacy permit. That motion to include the CDS license was adopted after a unanimous vote in the affirmative. The motion for the proposed order as amended was adopted after a unanimous vote in the affirmative.

Theresa Renee' Cosby (CPT.011485) Mr. Finalet appeared for the Board and noted the absence of the respondent or counsel. After verifying the absence of the respondent, Mr. Shows ruled the hearing would proceed as scheduled in the form of a default proceeding. He presented an opening statement, no witnesses, and six exhibits. He then offered a closing statement, proffered proposed findings of fact, conclusions of law, and board order, and then tendered the matter to the hearing panel for its consideration. Mr. Soileau moved to enter into executive session for the purpose of deliberating the disciplinary matter and discussing the respondent's professional competency. The motion was adopted

after a unanimous roll call vote in the affirmative.

It was noted the hearing panel entered executive session at 10:20 a.m. and then reconvened in open session at 10:40 a.m.

Ms. Hall moved,

Resolved, that the Board's hearing panel, having heard the testimony and considered the evidence, accept the Findings of Fact as proposed by the Prosecuting Attorney, modify them by amending Item 3 to remove the dates in the last paragraph and Item 7 to reflect the absence of the respondent from these proceedings, adopt the amended findings as our own, and then enter them into the hearing record.

The motion was adopted after a unanimous vote in the affirmative. Ms. Hall then moved,

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

The motion was adopted after a unanimous vote in the affirmative. Ms. Hall then moved,

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

It is ordered, adjudged, and decreed that Louisiana Pharmacy Technician Certificate No. 11485, held by Theresa Renee' Cosby, shall be and is hereby revoked, effective on the entry of this order, and further, the respondent shall pay the following assessments:

- (1) A fine of \$5,000;
- (2) The administrative hearing fee of \$250; and
- (3) The investigative and hearing costs, including the costs of the prosecuting attorney, the advisor to the hearing officer, and the official recorder; and

It is further ordered the acceptance of any future application for the reinstatement of this certificate, or any application for any other credential issued by the Board, shall be conditioned upon the satisfaction of the following terms:

- (1) Respondent shall have paid all assessments levied herein; and
- (2) Respondent shall have no pending legal or disciplinary actions against her in any jurisdiction.

The motion was adopted after a majority vote in the affirmative; while Dr. Simonson agreed with the revocation decision, she objected to the amount of the fine, believing it to be excessive.

Kaelynn Michael Williams (CPT.009769) Mr. Finalet appeared for the Board and noted the absence of the respondent or counsel. After verifying the absence of the respondent, Mr. Shows ruled the hearing would proceed in the form of a

default proceeding. Mr. Finalet presented an opening statement, no witnesses, and five exhibits. He then offered a closing statement, proffered proposed findings of fact, conclusions of law, and board order, and then tendered the matter to the hearing panel for its consideration. Mr. McKay moved to enter into executive session for the purpose of deliberating the disciplinary matter and discussing the respondent's professional competency. The motion was adopted after a unanimous roll call vote in the affirmative.

It was noted the hearing panel entered into executive session at 10:55 a.m. and then reconvened in open session at 11:20 a.m.

Ms. Hall moved,

Resolved, that the Board's hearing panel, having heard the testimony and considered the evidence, accept the Findings of Fact as proposed by the Prosecuting Attorney, modify them by amending Item 7 to reflect the absence of the respondent from these proceedings, adopt the amended findings as our own, and then enter them into the hearing record.

The motion was adopted after a unanimous vote in the affirmative. Ms. Hall then moved,

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

The motion was adopted after a unanimous vote in the affirmative. Ms. Hall then moved,

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

It is ordered, adjudged, and decreed that Louisiana Pharmacy Technician Certificate No. 9769, held by Kaelynn Michael Williams, shall be suspended for an indefinite period of time, effective on the entry of this order, and further, the respondent shall pay the following assessments:

- (1) The administrative hearing fee of \$250; and
- (2) The investigative and hearing costs, including the costs of the prosecuting attorney, the advisor to the hearing officer, and the official recorder; and

It is further ordered the acceptance of any future application for the reinstatement of this certificate, or any application for any other credential issued by the Board, shall be conditioned upon the satisfaction of the following terms:

- (1) Respondent shall have paid all assessments levied herein; and
- (2) Respondent shall have no pending legal or disciplinary actions against her in any jurisdiction.

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

Mr. Finalet indicated the completion of the formal hearings. Mr. Broussard expressed

his appreciation to Mr. Shows for his service as hearing officer that day. Mr. Rabb resumed his duty as the presiding officer.

G. Added Item – Immunization Recordkeeping

Mr. Rabb called upon Mr. McKay, who presented the prior history from 2010 relative to the adoption of legislation authorizing pharmacists to administer influenza immunizations without prescriptions or medical orders and the subsequent guidance statement adopted by the Board during its August 2010 meeting. He then reminded the members of the 2014 legislation expanding the immunizations that could be administered without prescriptions or medical orders, and suggested the propriety of adopting an updated guidance statement for pharmacist immunizers. He then moved,

Resolved, for the purpose of recordkeeping and facilitating access to immunizations for the public, and in the interest of the public's health, safety, and welfare, pharmacists administering immunizations without a prescription or medical order shall create a record in their prescription files which contains a prescription number and lists the immunizing pharmacist as the prescriber.

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

H. Adjourn

Having completed the tasks itemized on the posted agenda, with no further business pending before the Board, and without objection, Mr. Rabb adjourned the hearing at 11:30 a.m.

Respectfully submitted,

Brian A. Bond
Secretary