



TEXAS STATE BOARD OF PHARMACY

TEXAS STATE BOARD OF PHARMACY
Health Professions Council Board Room
333 Guadalupe Street, Tower II, Suite 225
Austin, Texas

May 8, 2012

MINUTES¹

Tuesday, May 8, 2012

President Jeanne D. Waggener, R.Ph., called the meeting to order at 9:03 a.m. Other Board Members present were Vice President Dennis F. Wiesner, R.Ph.; Treasurer Buford T. Abeldt, Sr., R.Ph.; Alice Mendoza, R.Ph.; Charles Wetherbee; Joyce A. Tipton, R.Ph.; and Phyllis A. Stine.

Board Members W. Benjamin Fry, R.Ph., and L. Suzan Kedron were not present.

Staff present were Gay Dodson, R.Ph., Executive Director/Secretary; Carol Fisher, R.Ph., M.P.A., Director of Enforcement; Allison Benz, R.Ph., M.S., Director of Professional Services; Kerstin Arnold, General Counsel; Cathy Stella, Director of Licensing and Administrative Services; Paul Holder, R.Ph., Pharm.D., Assistant Director of Enforcement; Julie Hildebrand, Litigation Counsel; Caroline Hotchkiss, Staff Attorney; Linda Townsend, Staff Attorney; Steve Rapp, Director of Information Technology; and Becky Damon, Executive Assistant.

Also present was Legal Intern Theresa Golde.

A. Announcements

- President Waggener made general announcements.
- Announcements were made concerning Board Members and staff.

¹See agenda and corresponding attachments for supporting materials.

- Ms. Benz made an announcement concerning continuing education credit for attending the Board Meeting.

B. Discussion and Approval of Minutes of Previous Meetings (Tab 1)

Following discussion, the motion was made by Ms. Mendoza to approve the minutes of the TSBP Board Business Meeting held February 14, 2012; the minutes of the Executive Committee Meeting held April 10, 2012; and the minutes of the Temporary Suspension Hearing held February 27, 2012, concerning Samuel Ambrosio Gurrola, R.Ph., Eduardo Acosta Jr., Guadalupe Carrillo, and Palafox Pharmacy, as presented. The motion was seconded by Mr. Abeldt and passed unanimously.

C. Discussion of and Possible Action Regarding Rules

Final Adoption of Rules

- Rules Concerning Mental or Physical Examinations (§281.6) (Tab 02)

Ms. Benz explained that the Board voted to propose the amendments to §281.6 during its February 14, 2012, meeting. The proposed amendments were published in the March 30, 2012, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to amendments to §281.6 and explained that the amendments clarify the requirements for applicants, licensees, or registrants to submit to a mental or physical examination upon a finding of probable cause.

Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Mr. Wetherbee to approve for adoption, by Board Order, amendments to §281.6. The motion was seconded by Mr. Wiesner and passed unanimously.

- Rules Concerning Informal Disposition of a Contested Case (§281.22); and Failure to Attend Hearing and Default (§281.32) (Tab 03)

Ms. Benz explained that the Board voted to propose the amendments to §§281.22 and 281.32 during its February 14, 2012, meeting. The proposed amendments were published in the March 30, 2012, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to suggested amendments to §§281.22 and 281.32 and explained the amendments clarify the procedures for default orders with the State Office of Administrative Hearings (SOAH) and clarify the procedures for contested case hearings at SOAH when a party who does not have the burden of proof fails to appear at the hearing. These changes are based on changes to the SOAH rules.

Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Ms. Tipton to approve for adoption, by Board Order, amendments to §§281.22 and 281.32. The motion was seconded by Mr. Abeldt and passed unanimously.

- Rules Concerning Sanctions for Misdemeanor Offenses Involving Intoxication (§281.64); and New Rule Concerning Sanctions for Out-of-State Disciplinary Action (§281.67) (Tab 04)

Ms. Benz explained that the Board voted to propose the amendments to §281.64 and new rule §281.67 during its February 14, 2012, meeting. The proposed amendments and new rule were published in the March 30, 2012, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to suggested amendments to §281.64 and explained the amendments clarify the sanctions for offenses involving intoxication due to the ingestion of alcohol and intoxication due to the ingestion of controlled substances or dangerous drugs. She explained new rule §281.67 clarifies the sanctions for disciplinary actions taken by a regulatory board of another state.

Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Ms. Stine to approve for adoption, by Board Order, amendments to §281.64 and new rule §281.67. The motion was seconded by Ms. Mendoza and passed unanimously.

- Rules Concerning Notification Requirements (§291.3); Delivery of Prescriptions to Patients (§291.9); and Inventory Requirements (§291.17) (Tab 05)

Ms. Benz explained that the Board voted to propose the amendments to §§291.3, 291.9 and 291.17 during its February 14, 2012, meeting. The proposed amendments were published in the March 30, 2012, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to suggested amendments to §§291.3, 291.9 and 291.17 and explained the amendments add Class F pharmacies to the change of ownership requirements and eliminate the requirement for the pharmacist-in-charge to delete or enter the name of the pharmacists changing employment on the pharmacy license since this is no longer required; clarify the locations that prescriptions may be delivered to patients; and eliminate references to Schedule I controlled substances and add tramadol (Ultram) to the inventory requirements.

Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Ms. Mendoza to approve for adoption, by Board Order, amendments to §§291.3, 291.9 and 291.17. The motion was seconded by Mr. Wetherbee and passed unanimously.

- Rules Concerning Duties of Pharmacists and Pharmacy Technician/Trainees (§291.32); Patient Counseling Requirements and Storage of Flammable Products (§291.33); and Records and Professional Responsibility (§291.34) (Tab 06)

Ms. Benz explained that the Board voted to propose the amendments to §§291.32, 291.33 and 291.34 during its February 14, 2012, meeting. The proposed amendments were published in the March 30, 2012, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to suggested amendments to §§291.32, 291.33 and 291.34 and explained the amendments update and clarify the duties of pharmacists and pharmacy technicians/trainees; add requirements for storing flammable products in the pharmacy and update the patient counseling requirements with regard to documenting the identification of the counseling pharmacist; and clarify record keeping requirements and professional responsibility for pharmacists.

Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Mr. Wetherbee to approve for adoption, by Board Order, amendments to §§291.32, 291.33 and 291.34. The motion was seconded by Ms. Mendoza and passed unanimously.

- Rules Concerning Owners of Nuclear Pharmacies (Class B) (§291.53) (Tab 07)

Ms. Benz explained that the Board voted to propose the amendments to §291.53 during its February 14, 2012, meeting. The proposed amendments were published in the March 30, 2012, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to suggested amendments to §291.53 and explained the amendments add responsibilities for owners of nuclear (Class B) pharmacies to be consistent with other classes of pharmacies in the rules.

Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Ms. Stine to approve for adoption, by Board Order, amendments to §291.53. The motion was seconded by Ms. Tipton and passed unanimously.

- Rules Concerning Ratio of Pharmacists to Pharmacy Technician/Trainees in Centralized Prescription Drug or Medication Order Processing Pharmacy (§291.153) (Tab 08)

Ms. Benz explained that the Board voted to propose the amendments to §291.153 during its February 14, 2012, meeting. The proposed amendments were published in the March 30, 2012, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to suggested amendments to §291.153 and explained the amendments clarify the ratio requirements relating to on-site pharmacists to pharmacy technicians/trainees in Class G pharmacies.

Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Ms. Mendoza to approve for adoption, by Board Order, amendments to §291.153. The motion was seconded by Mr. Wetherbee and passed unanimously.

Proposal of Rules

- Rules Concerning Grounds for Discipline for a Pharmacist License (§281.7) (Tab 09)

Ms. Benz directed the Board's attention to suggested amendments to §281.7 and explained the amendments clarify the definition of "unprofessional conduct," correct grammar, and add "allowing an individual whose license to practice pharmacy, either as a pharmacist or a pharmacist-intern, or a pharmacy technician/trainee whose registration has been disciplined by the board, resulting in the license or registration being revoked, canceled, retired, surrendered, denied or suspended, to have access to prescription drugs in a pharmacy" as a grounds for discipline for a pharmacist license.

Following discussion, the motion was made by Ms. Mendoza to approve for proposal amendments to §281.7, as presented. The motion was seconded by Mr. Wiesner and passed unanimously.

- Rules Concerning Informal Disposition of a Contested Case (§281.22) (Tab 10)

Ms. Benz directed the Board's attention to suggested amendments to §281.22 and explained the amendments update the reference to §281.30.

Ms. Benz explained the staff was recommending the Board consider the amendments to §281.22 in conjunction with rules concerning Pleadings and Notice in a Contested Case (Item #C.2.3).

- Rules Concerning Pleadings and Notice in a Contested Case (§281.30) (Tab 11)

Ms. Benz directed the Board's attention to suggested amendments to §281.30 and explained the amendments implement new procedures for requiring a written answer after a complaint is filed at the State Office of Administrative Hearings and the proper handling of default hearings.

Following discussion, the motion was made by Mr. Wetherbee to approve for proposal amendments to §§281.22 and 281.30, as presented. The motion was seconded by Ms. Tipton and passed unanimously.

- Rules Concerning Provision of Drugs in Clinic Pharmacies (Class D) (§291.93) (Tab 12)

Ms. Benz directed the Board's attention to suggested amendments to §291.93 and explained the amendments clarify the requirements for mailing medication from Class D (Clinic) pharmacies.

Following discussion, the motion was made by Mr. Wetherbee to approve for proposal amendments to §291.93 as presented. The motion was seconded by Ms. Stine and passed unanimously.

- Rules Concerning Recall Procedures for Compounded Preparations (§§291.131 and 291.133) (Tab 13)

Ms. Benz directed the Board's attention to suggested amendments to §§291.131 and 291.133 and explained the amendments clarify the requirements for the recall of compounded preparations. Ms. Benz recommended that the proposed rule be changed so that written notifications to the Board concerning recalls be limited to batch preparations only.

Following discussion, the motion was made by Mr. Wetherbee to approve for proposal amendments to §§291.131 and 291.133 with changes recommended by Board staff. The motion was seconded by Ms. Mendoza and passed unanimously.

- Rules Concerning Continuing Education Approved by Other State Boards of Pharmacy (§295.8) (Tab 14)

Ms. Benz directed the Board's attention to two versions of suggested amendments to §295.8 and explained the amendments allow pharmacists to receive continuing education credit for programs approved by other state boards of pharmacy.

Following discussion, the motion was made by Ms. Mendoza to approve for proposal amendments §295.8, as presented by Board staff in version #2. The motion was seconded by Mr. Wetherbee and passed unanimously.

- Rules Concerning License Fees (§§291.6, 295.5 and 297.4) (Tab 15)

Ms. Stella directed the Board's attention to suggested amendments to §§291.6, 295.5 and 297.4 and explained the amendments will increase fees based on revised revenue projections for FY2012.

Ms. Stella directed the Board's attention to these revised revenue projections for FY2013. She explained that while the agency had received an increase in appropriations for FY2012-2013, the agency is required to generate enough revenue to fund the additional appropriations.

Following discussion, based on the revenue projections for FY2013, the motion was made by Mr. Wiesner to approve for proposal amendments to §§291.6, 295.5, and 297.4, increasing pharmacy license fees by \$12, increasing pharmacist license fees by \$10, increasing pharmacy technician registration fees by \$10, and increasing pharmacy technician trainee registration fees by \$5. The motion was seconded by Mr. Wetherbee and passed unanimously.

Rule Review

- For Proposal

Ms. Benz directed the Board's attention to the TSBP Rule Review Plan for FY2010-2013 (Tab 16)

- Chapter 291 Concerning Pharmacies (Institutional Pharmacy) (Class C) (§§291.71-291.76) (Tab 17)
- Chapter 303 Concerning Destruction of Dangerous Drugs & Controlled Substances (§§303.1-303.3) (Tab 18)

Following discussion, in accordance with Government Code §2001.039, the motion was made by Mr. Wetherbee to approve for proposal, as presented, the review of Chapter 291 (§§291.71-291.76), and Chapter 303 (§§303.1-303.3). The motion was seconded by Ms. Mendoza and passed unanimously.

D. Discussion of and Possible Action Concerning Reports of Committees/Task Forces

- Concerning Long Term Care Pharmacy Task Force (Tab 19)

Ms. Benz reported the Task Force is not ready to report at this meeting but they hope to have a report at the August Board Meeting.

E. Discussion of and Possible Action Concerning the Following Reports and Discussions

- Discussion Concerning *TSBP FY2013-2017 Strategic Plan* (Tab 20)

Ms. Dodson directed the Board's attention to a draft of the *TSBP FY2013-2017 Strategic Plan*. Following a review of the plan, the motion was made by Ms. Mendoza to approve the *TSBP FY2013-2017 Strategic Plan* with changes recommended by the Board. The motion was seconded by Mr. Wetherbee and passed unanimously.

President Waggener recessed the meeting at 10:37 a.m.

President Waggener reconvened the meeting at 10:56 a.m.

- Discussion Concerning Amendments to Rule §291.93 by Allowing Class D Pharmacies to Operate more than Three Temporary Locations Simultaneously (Tab 35)

Ms. Waggener recognized Shelly Laws, R.Ph., Pharmacist-in-Charge, Parkland Homeless Outreach Medical Services. Ms. Laws explained that Parkland currently operates three mobile units that deliver health care to homeless people in Dallas County. She explained that Parkland would like to put an additional van in service.

Following discussion, the motion was made by Mr. Wetherbee to approve for proposal amendments to §291.93, that would allow a Class D pharmacy to operate no more than six temporary locations simultaneously. The motion was seconded by Mr. Abeldt and passed unanimously.

- Financial Update
 - Review of FY2012 Operating Budget (Tab 21)

Ms. Stella reviewed the expenditures for the first two quarters of FY2012 (September 1, 2011 - through February 29, 2012) for the Board.

- Review of Board Member Travel Budget (Tab 22)

Ms. Stella reviewed the Board Member FY2012 Travel Budget.

- Review and Approval of Proposed Budget for FY2014-2015 (Tab 23)

Ms. Stella directed the Board's attention to information concerning TSBP's proposed budgets for FY2014-2015. Ms. Stella reviewed the financial documents for the Board and answered questions posed by the Board.

President Waggener recessed the meeting at 11:47 a.m.

President Waggener reconvened the meeting at 12:35 p.m.

Following review and discussion the Board recommended an addition to the FY2014-2015 Budget of an exceptional item for an increase in the Executive Director's salary.

Mr. Wetherbee moved to approve the proposed exceptional item and to ask the legislature to either allow the Board to set the salary of the Executive Director within the range of the Exempt Group of salary range (\$106,500 - \$167,500) or set the salary at \$140,000. The motion was seconded by Ms. Mendoza and passed unanimously.

Following review and discussion of the budget documents, the motion was made by Ms. Stine to approve the proposed budget with the changes requested and to give the Executive Committee the authority to approve any additional changes that arise. The motion was seconded by Ms. Tipton and passed unanimously.

- Review of TSBP Revenue Projections and Fee Scenarios (Tab 24)

Ms. Stella explained that if the proposed FY2014-2015 budget was approved by the legislature then licensing fees would need to be increased to generate revenue to support the increased budget.

- Professional Recovery Network

- Dr. Holder discussed the charts that reflect the performance measures regarding the number of individuals participating in the peer assistance program for the past three fiscal years (FY2009-2011) as well as the number of pharmacists participating in the program during the first two quarters of FY2012. (Tab 25)

- President Waggener recognized Courtney Bolin, Director of the Professional Recovery Network (PRN). Ms. Bolin directed the Board's attention to the PRN budget report for September 1, 2011, through February 29, 2012, and reviewed current PRN activities for the Board. (Tab 26)
- Ms. Bolin directed the Board's attention to the PRN Proposed Budget for FY2014-2015 and pointed out that PRN was asking for an increase in funding. (Tab 27)

Following discussion, the motion was made by Mr. Wetherbee to approve the Proposed PRN Budget for FY2014-2015, as presented. The motion was seconded by Mr. Wiesner and passed unanimously.

- Presentation Regarding New Layout for Walgreens Pharmacies (Tab 33)

Ms. Waggener recognized Al Carter with Walgreens Pharmacies who presented a video that showed the new layout for the pharmacy department that Walgreens is implementing when constructing new pharmacies. Ms. Waggener also recognized A.J. Patel with Walgreens who answered questions concerning the volume at various Walgreens pharmacies that currently have this layout.

- Report on Shared Regulatory Data Base Project (Tab 28)

Steve Rapp, Director of Information Technology, reported on the continuing issues with the new Shared Regulatory Data Base system and the progress made in resolving these issues.

- Report on Internal Risk Assessment (Tab 29)

Ms. Stella directed the Board's attention to an internal risk assessment that is reported annually to the State Auditor's Office. She reviewed the risk assessment for the Board.

Following discussion, it was the consensus of the Board that the report was an adequate risk assessment for TSBP.

President Waggener recessed the meeting at 1:58 p.m.

President Waggener reconvened the meeting at 2:08 p.m.

F. Disciplinary Orders

- Consideration of Proposals for Decision (Tab 39)
 - In the Matter of Abdur Rashid, Pharmacy Technician Registration #120323 (Tab 39)

Ms. Hildebrand advised the Board that on February 14, 2012, State Office of Administrative Hearings (SOAH) Administrative Judge Pratibha J. Shenoy issued a *Proposal for Decision* by default in the matter of Abdur Rashid. Ms. Hildebrand reviewed the *Proposal for Decision* for the Board.

Ms. Hildebrand directed the Board's attention to Board Order #T-10-398, which she reviewed for the Board.

Following discussion, the motion was made by Mr. Wetherbee to accept the *Findings of Fact and Conclusions of Law* in the *Proposal for Decision* and approve Board Order #T-10-398, as presented, in the matter of Abdur Rashid, to impose a suspension for a period of five years, with the suspension being probated with conditions, and to impose a \$6,500 administrative penalty. The motion was seconded by Mr. Abeldt and passed unanimously.

- *TSBP FY2013 Calendar of Events* (Tab 30)

Ms. Dodson directed the Board's attention to a draft of the *TSBP FY2013 Calendar of Events*. Following review, the motion was made by Ms. Mendoza to approve the *TSBP FY2013 Calendar of Events*, as presented. The motion was seconded by Ms. Tipton and passed unanimously.

- Report Customer Service Survey (Tab 31)

Ms. Dodson directed the Board's attention to the results of the TSBP customer service survey for FY2010-2011. Ms. Dodson reviewed the report for the Board.

- Discussion Concerning Pharmacists Working Conditions (Tab 32)

Ms. Dodson presented a letter received from Steve Ariens, P.D., with The Pharmacy Alliance, concerning the working conditions in pharmacies.

Following discussion, the Board took no action on this item.

- Discussion Concerning Sanctions Imposed in Pill Mill Cases and Consideration of Amendments to §281.64 (Tab 34)

Ms. Arnold directed the Board's attention to suggested amendments to §281.64 and explained the suggested amendment adds "illegal dispensing" to the rule.

Ms. Arnold also reported that the current sanction the Board is imposing on pharmacists who dispense controlled substances pursuant to an invalid prescription is a suspension of the pharmacist's license for a period of time. She explained that this practice was instituted when the Board was dealing with illegal dispensing pursuant to internet prescriptions. With the increase in TSBP cases involving the dispensing of illegal prescriptions from pill mill clinics, she suggested the Board may want to review whether or not the sanction should be increased. After discussion, the Board members agreed that the Board should impose a sanction up to and including revocation of a license based on the individual case.

Following discussion, the motion was made by Ms. Mendoza to approve for proposal amendments to §281.64, as presented. The motion was seconded by Ms. Stine and passed unanimously.

- Review of Public Information Initiatives (Tab 36)

Ms. Benz and Ms. Arnold presented an overview of educational programs the staff has implemented and how TSBP is using the Social Media to provide information and education to licensees. They presented an example of the various videos that staff members have created. The videos are posted on the TSBP website, Facebook page, and You-tube.

- Update on Legislation Passed During the 82nd Texas Legislative Regular Session that has an Impact on TSBP and/or the Practice of Pharmacy (Tab 37)

Ms. Dodson directed the Board's attention to an action chart concerning legislation that was passed during the 82nd Session of the Texas Legislature that had an impact on TSBP and/or the practice of pharmacy. The chart contains the bill number, action required of TSBP, the effective date of the bill, TSBP's internal deadline, and the current status of TSBP's implementation of the bill.

Ms. Dodson explained that all items on the chart have now been completed. Ms. Dodson noted that although the action chart indicates we will be adopting rules to implement S.B. 1273, no rule changes are necessary.

- Discussion of Possible Statutory Changes for Consideration During the 83rd Session of the Texas Legislature (Tab 38)

Ms. Dodson directed the Board's attention to two lists. The first was a list of items previously approved by the Board for recommendation for action during the 82nd Session of the Texas Legislature on which no action was taken. The second was a list of staff suggested changes to laws for the 83rd Session of the Texas legislative. The Board took no action on this item and further discussion will occur at a future meeting.

President Waggener recessed the meeting at 3:54 p.m.

President Waggener reconvened the meeting at 4:05 p.m.

F. Disciplinary Orders (Cont'd)

Ms. Arnold directed the Board's attention to reports concerning disciplinary orders for pharmacists, pharmacies, pharmacy technicians, and pharmacy technician trainees.

- Report on Agreed Board Orders Entered by Executive Director (Tab 40)
 - The Board reviewed 53 Agreed Board Orders concerning pharmacy technicians and pharmacy technician trainees that had been entered by the Executive Director on behalf of the Board, in accordance with the Board's directives, during the period February 23, 2012, through May 8, 2012.
 - The Board reviewed 18 Agreed Board Orders concerning pharmacists and pharmacies that had been entered by the Executive Director on behalf of the Board in accordance with the Board's directive, during the period February 23, 2012, through April 16, 2012.
- Discussion of and Action on Proposed Agreed Board Orders and Proposed Default Board Orders (Tab 41)
 - The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following 27 proposed Agreed Board Orders concerning pharmacy technicians and pharmacy technician trainees who appeared for an informal conference and 19 proposed Default Board Orders concerning pharmacy technicians and pharmacy technician trainees who did not appear for informal conferences.

Agreed Board Orders

- | | |
|------------------------------|-----------------|
| 1. Marian Nicole Gallivan | ABO #T-10-668 |
| 2. Christy Christine Chavis | ABO #T-11-541-N |
| 3. Ossellini Yvonne Harrison | ABO #T-11-554 |
| 4. Tamika Alvina Harry | ABO #T-12-064 |
| 5. Wendy Kaye Kotz | ABO #T-11-552-N |
| 6. Armando Mata | ABO #T-11-322-N |
| 7. Jessica LaTrese Moody | ABO #T-11-393-N |
| 8. Roshaan Demond Roberson | ABO #T-12-065 |
| 9. Hussain Abbas Bukhari | ABO #T-11-504 |
| 10. Daniel Rocha Egure | ABO #T-10-343-N |
| 11. Sonny Grijalva | ABO #T-12-073-N |
| 12. Elizabeth Lucero | ABO #R-11-006-T |
| 13. Amanda Peoples | ABO #T-12-014-N |
| 14. Marina Esther Reece | ABO #T-11-465-N |
| 15. Donna Denay Royston | ABO #T-12-044 |
| 16. Booker Malik Williams II | ABO #T-12-089-N |
| 17. Angel Alfredo Chavira | ABO #T-11-514-N |
| 18. Matthew Ryan Erwin | ABO #T-11-573-N |
| 19. Jon Calvice Landry | ABO #T-12-152 |
| 20. Patrick Taylor Ledo | ABO #T-11-481 |
| 21. Sarah K. Moss | ABO #T-12-035 |
| 22. Daniel Olivares | ABO #T-11-463-N |
| 23. Lisa Peshel | ABO #T-12-091 |
| 24. Etta Mae Stance | ABO #T-12-097-N |
| 25. Joshua Eli Trevino | ABO #T-11-049 |
| 26. Nathan Adrain Walters | ABO #T-11-309 |
| 27. Bradley Wayne Wilson | ABO #T-10-633 |

Default Board Orders

- | | |
|--------------------------------|-----------------|
| 28. Dana Leesa Adams | ABO #T-11-464-N |
| 29. Erika C. Gonzalez | ABO #T-11-471-N |
| 30. Derrick Montreal Blackwell | ABO #T-11-442-N |
| 31. Kenya Carter | ABO #T-11-503-N |
| 32. Michael Darrel Crump | ABO #T-10-150 |
| 33. Frances Estella Gandy | ABO #T-11-310 |
| 34. Adrienne Hester | ABO #T-11-050 |
| 35. Yesenia Ruiz | ABO #T-11-470-N |
| 36. Marie Wolf | ABO #T-11-590-N |
| 37. Tammie Rochelle Wright | ABO #T-11-149 |
| 38. Michelle Nicole Dalton | ABO #T-11-527 |
| 39. Paula Y. Jackson | ABO #T-11-526 |
| 40. Skylar Michelle Kirvin | ABO #T-12-087-N |
| 41. John Michael | ABO #T-11-586 |
| 42. Tiffany Amber Moore | ABO #T-11-311 |
| 43. Deizy Perez | ABO #T-12-096 |
| 44. Melvin Santiago | ABO #T-11-591-N |
| 45. Hector David Spencer | ABO #T-11-363 |
| 46. Cristal Torres | ABO #T-12-138-N |

The motion was made by Ms. Mendoza to approve the 27 proposed Agreed Board Orders concerning pharmacy technicians and pharmacy technician trainees who appeared for an informal conference and 19 proposed Default Board Orders concerning pharmacy technicians and pharmacy technician trainees who did not appear for informal conferences.

The motion was seconded by Mr. Wetherbee and passed as follows.

1. 6-0-0
2. 5-0-1 Mr. Wetherbee abstained
3. 5-0-1 Mr. Wetherbee abstained
4. 5-0-1 Mr. Wetherbee abstained
5. 5-0-1 Mr. Wetherbee abstained
6. 5-0-1 Mr. Wetherbee abstained
7. 5-0-1 Mr. Wetherbee abstained
8. 5-0-1 Mr. Wetherbee abstained
9. 6-0-0
10. 6-0-0
11. 6-0-0
12. 6-0-0
13. 6-0-0
14. 6-0-0
15. 6-0-0
16. 6-0-0
17. 6-0-0
18. 6-0-0
19. 6-0-0
20. 6-0-0
21. 6-0-0
22. 6-0-0
23. 6-0-0
24. 6-0-0
25. 6-0-0
26. 6-0-0
27. 6-0-0
28. 5-0-1 Mr. Wetherbee abstained
29. 5-0-1 Mr. Wetherbee abstained
30. 6-0-0
31. 6-0-0
32. 6-0-0
33. 6-0-0
34. 6-0-0
35. 6-0-0
36. 6-0-0
37. 6-0-0
38. 6-0-0
39. 6-0-0
40. 6-0-0

41. 6-0-0
42. 6-0-0
43. 6-0-0
44. 6-0-0
45. 6-0-0
46. 6-0-0

- The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following 11 proposed Agreed Board Orders (Alternative Resolutions); and 45 proposed Agreed Board Orders concerning pharmacists, pharmacies, students, pharmacist-interns, and pharmacy technicians who appeared for an informal conference.

Agreed Board Orders (Alternate Resolutions)

- | | |
|-------------------------------|-----------------|
| 1. Kroger Pharmacy #689 | ABO #H-11-086-B |
| 2. Monica Han Yan Lui Chi | ABO #H-11-086 |
| 3. Murr's Medicine Chest | ABO #H-11-062-B |
| 4. Laura Beth Temple | ABO #H-11-062-A |
| 5. Sunday Ntiejumokwu | ABO #H-12-017-A |
| 6. Wal-Mart Pharmacy #10-3500 | ABO #H-12-001 |
| 7. Walgreen Co. #5434 | ABO #H-11-047-B |
| 8. Walgreen Co. #5961 | ABO #H-11-037 |
| 9. Walgreen Co. #9810 | ABO #H-11-087-B |
| 10. Deborah Ann Soule | ABO #H-11-087-A |
| 11. Walgreen Co. #11971 | ABO #H-11-031 |

Agreed Board Order (Following an Informal Conference)

- | | |
|-------------------------------------|-----------------|
| 12. Eugenia Nnenna Agugua | ABO #N-12-003 |
| 13. APS Pharmacy | ABO #L-12-003 |
| 14. Mary E. Azuike | ABO #H-11-040-A |
| 15. City Pharmacy of Junction, Inc. | ABO #J-11-020-B |
| 16. J. Floyd Butler | ABO #J-11-020-A |
| 17. Carolyn Whitby Lawhon | ABO #T-11-447 |
| 18. Peggy Lynn Taylor | ABO #T-11-446 |
| 19. Columbia Ave. Pharmacy | ABO #L-12-010 |
| 20. CVS/pharmacy #5869 | ABO #B-10-059 |
| 21. CVS/pharmacy #6825 | ABO #H-11-018 |
| 22. CVS/pharmacy #7222 | ABO #H-11-079-B |
| 23. Chukwuma Ikenna Okafor | ABO #H-11-079-A |
| 24. CVS/pharmacy #7472 | ABO #H-11-067-B |
| 25. Christa Adhiambo | ABO #H-11-067-A |
| 26. CVS/pharmacy #7831 | ABO #B-10-035 |
| 27. Nghi Truc Dinh | ABO #H-11-046-A |
| 28. Express Scripts, Inc. | ABO #L-10-029 |
| 29. IV Solutions of Lubbock | ABO #J-11-012 |
| 30. Robby Don Timberlake | ABO #J-11-011 |
| 31. Tram Phuong Joe | ABO #M-12-008 |
| 32. Leadcare Pharmacy, Inc. | ABO #E-11-019-B |

33.	Daniel Azubuikwe Anyadike	ABO #E-11-019-A
34.	Louis Morgan Drugs #4, Inc.	ABO #C-10-011-B
35.	Robert Michael Holbert	ABO #C-10-011-A
36.	Deborah Rae Medina	ABO #E-12-001
37.	Christopher O. Oramasionwu	ABO #H-11-073-A
38.	John Christopher Pate	ABO #H-10-046-A
39.	Pete's Pharmacy IV	ABO #J-11-024-B
40.	Pedro Manuel Yzaquirre Jr.	ABO #J-11-024-A
41.	Mai Kim Pham	ABO #S-12-005
42.	Pharmacy Plus #9	ABO #K-10-023-B
43.	Thomas Manning Neale Jr.	ABO #K-10-023-A
44.	Vivek G. Purani	ABO #J-11-019
45.	Jose Ricardo Rivas	ABO #J-11-017
46.	Deidre Ann Shelton	ABO #E-11-008
47.	Solaris Pharmacy, Inc.	ABO #B-10-055
48.	Special Design Healthcare	ABO #L-11-015
49.	William Adams Stallknecht	ABO #R-11-005
50.	Steven's Pharmacy	ABO #L-12-009
51.	Teresa Sweet	ABO #M-12-005
52.	Townwood Pharmacy	ABO #A-08-025-B
53.	A. B. Hurd Jr.	ABO #A-08-025-A
54.	Walgreen Co. #03507	ABO #C-10-015-B
55.	Christopher Kumar Adlakhia	ABO #C-10-015-A
56.	Bright Omemgboji Wokocha	ABO #E-12-004

The motion was made by Mr. Wetherbee to approve the 11 proposed Agreed Board Orders (Alternative Resolutions); and 45 proposed Agreed Board Orders concerning pharmacist, pharmacies, students, pharmacist-interns, and pharmacy technicians who appeared for an informal conference.

The motion was seconded by Ms. Mendoza and passed as follows.

1. 6-0-0
2. 6-0-0
3. 6-0-0
4. 6-0-0
5. 6-0-0
6. 6-0-0
7. 6-0-0
8. 6-0-0
9. 6-0-0
10. 6-0-0
11. 6-0-0
12. 6-0-0
13. 6-0-0
14. 5-0-1 Ms. Tipton abstained
15. 5-0-1 Ms. Tipton abstained
16. 5-0-1 Ms. Tipton abstained

17. 5-0-1 Ms. Tipton abstained
18. 5-0-1 Ms. Tipton abstained
19. 6-0-0
20. 6-0-0
21. 6-0-0
22. 6-0-0
23. 6-0-0
24. 6-0-0
25. 6-0-0
26. 5-0-1 Ms. Tipton abstained
27. 6-0-0
28. 6-0-0
29. 6-0-0
30. 6-0-0
31. 6-0-0
32. 5-0-1 Ms. Tipton abstained
33. 5-0-1 Ms. Tipton abstained
34. 5-0-1 Mr. Abeldt abstained
35. 5-0-1 Mr. Abeldt abstained
36. 6-0-0
37. 5-0-1 Ms. Tipton abstained
38. 5-0-1 Ms. Tipton abstained
39. 6-0-0
40. 6-0-0
41. 6-0-0
42. 5-0-1 Mr. Abeldt abstained
43. 5-0-1 Mr. Abeldt abstained
44. 6-0-0
45. 6-0-0
46. 5-0-1 Mr. Abeldt abstained
47. 5-0-1 Ms. Tipton abstained
48. 6-0-0
49. 5-0-1 Mr. Wiesner abstained
50. 6-0-0
51. 6-0-0
52. 6-0-0
53. 6-0-0
54. 6-0-0
55. 6-0-0
56. 6-0-0

- Confidential Agreed Board Orders (Tab 42)

The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following two proposed Confidential Agreed Board Orders (Alternative Resolutions); and 14 proposed Confidential Agreed Board Orders following an Informal Conference.

Agreed Board Orders (Alternate Resolution)

1. ABO #G-11-028
2. ABO #L-11-032

Agreed Board Orders (Following an Informal Conference)

3. ABO #G-11-003
4. ABO #L-11-036
5. ABO #M-12-013
6. ABO #E-12-005
7. ABO #G-12-025-A
8. ABO #G-11-024
9. ABO #S-12-007
10. ABO #G-11-011-B
11. ABO #G-11-011-A
12. ABO #L-11-034
13. ABO #G-11-025
14. ABO #N-11-025
15. ABO #N-12-001
16. ABO #E-10-001

The motion was made by Mr. Wetherbee to approve the two proposed Confidential Agreed Board Order (Alternative Resolutions); and 14 proposed Confidential Agreed Board Orders following an Informal Conference.

The motion was seconded by Ms. Mendoza passed as follows:

1. 6-0-0
2. 6-0-0
3. 6-0-0
4. 6-0-0
5. 6-0-0
6. 6-0-0
7. 6-0-0
8. 6-0-0
9. 6-0-0
10. 5-0-1 Mr. Wiesner abstained
11. 5-0-1 Mr. Wiesner abstained
12. 6-0-0
13. 6-0-0
14. 6-0-0
15. 6-0-0
16. 5-0-1 Mr. Abeldt abstained

G. Consideration of and Possible Action Concerning Enforcement Reports

- Petition to Serve as a Preceptor

Under Board Rule §283.6, a pharmacist who has been the subject of an order of the Board may not serve as a preceptor if the pharmacist has been the subject of a Board order during a three-year period immediately preceding application for approval as a preceptor. However, a pharmacist who is or has been the subject of an order may petition the Board to act as a preceptor. The Board reviewed a petition from the following individuals to determine whether the petitions met the requirements of §283.6 (c).

- o Charles Mike Larsen, R.Ph. (Tab 43)

Ms. Fisher reviewed the petition from Charles Mike Larsen, R.Ph. The motion was made by Mr. Wetherbee that the Board deny the petition of Charles Mike Larsen, R.Ph., to serve as a preceptor. The motion was seconded by Ms. Tipton and passed 6-0-0.

- o Carolyn Duvall Rapp, R.Ph. (Tab 44)

Ms. Fisher reviewed the petition from Carolyn Duvall Rapp, R.Ph. The motion was made by Ms. Stine that the Board grant the petition of Carolyn Duvall Rapp, R.Ph., to serve as a preceptor. The motion was seconded by Ms. Mendoza and passed 6-0-0.

- o Grant Watson Armstrong, R.Ph. (Tab 45)

Ms. Fisher reviewed the petition from Grant Watson Armstrong, R.Ph. The motion was made by Ms. Tipton that the Board deny the petition of Grant Watson Armstrong, R.Ph., to serve as a preceptor. The motion was seconded by Mr. Wetherbee and passed 6-0-0.

- o Nancy Golden, R.Ph. (Tab 46)

Ms. Fisher reviewed the petition from Nancy Golden, R.Ph. The motion was made by Ms. Stine that the Board deny the petition of Nancy Golden, R.Ph., to serve as a preceptor. The motion was seconded by Mr. Abeldt and passed 4-0-2. Mr. Wiesner and Mr. Wetherbee abstained.

- o Kelly Stovall, R.Ph. (Tab 47)

Ms. Fisher reviewed the petition from Kelly Stovall, R.Ph. The motion was made by Ms. Mendoza that the Board grant the petition of Kelly Stovall, R.Ph., to serve as a preceptor. The motion was seconded by Mr. Abeldt and passed 6-0-0.

- o Roger Holmes, R.Ph. (Tab 48)

Ms. Fisher reviewed the petition from Roger Holmes, R.Ph.

Mr. Wiesner made a motion that the Board go into Executive Session to consider the petition under the authority of the Texas Occupation Code, Section 564.002. The motion was seconded by Ms. Stine and passed unanimously.

President Waggener declared the Board in Executive Session at 4:38 p.m.

At 4:52 p.m., President Waggener announced that the Board would resume the meeting in Open Session. President Waggener announced that no action was taken and no decisions were made during Executive Session.

The motion was made by Mr. Wetherbee that the Board deny the petition of Roger Holmes, R.Ph., to serve as a preceptor. The motion was seconded by Mr. Abeldt and passed 6-0-0.

- Report on Complaints Closed and Dismissed During the Previous Quarter (Tab 49)

The Board received a report on complaints dismissed and closed during the first two quarters of FY2012 (September 1, 2011 – February 29, 2012). The report also included quarterly averages for FY2011 as compared to FY2012, as well as percentage change from FY2011 to FY2012.

Ms. Fisher reviewed the report for the Board.

- Report on Status of Active/Pending Complaints (Tab 50)

The Board received a Report on *Status of Active/Pending Complaints*.

Ms. Fisher reviewed the report for the Board.

H. Miscellaneous

- Items to be Placed on Agenda for August Board Meeting (Tab 51)

Board Members and/or Ms. Dodson requested that the following items be placed on the agenda for the August 2012 Board Meeting.

- Presentation concerning the Health Information Exchange.
 - Discussion concerning continuing education credit for continuing medical education.
 - Discussion concerning an increase in administrative penalties for counseling violations.
 - Discussion of and Possible Action on Recent Conferences and Events
- The Board discussed Board Member attendance at recent conferences and events.
- Discussion of and Possible Action on Upcoming Conferences and Events

The Board discussed Board Member and Executive Director attendance at upcoming conferences and events.

President Waggener adjourned the meeting at 4:58 p.m.

APPROVED:

Jeanne D. Waggener, R.Ph.
President

Gay Dodson, R.Ph.
Executive Director/Secretary

August 7, 2012



TEXAS STATE BOARD OF PHARMACY

TEXAS STATE BOARD OF PHARMACY

**Executive Committee Meeting
July 27, 2012**

**The Woodlands Waterway Marriott Hotel and Convention Center
Waterway 3 Meeting Room
1601 Lake Robbins Drive
The Woodlands, Texas 77380**

MINUTES¹

President Jeanne Waggener, R.Ph. called the meeting to order at 11:40 a.m. Executive Committee members present were Dennis F. Wiesner, R.Ph. and Buford T. Abeldt, Sr., R.Ph. Board member W. Benjamin Fry, R.Ph. and Courtney Bolin, Director of the Professional Recovery Network (PRN) also attended the meeting.

Staff present was Executive Director/Secretary Gay Dodson, R.Ph.

Ms. Dodson explained that the purpose of the meeting was for the Executive Committee to review the agency's Exceptional Item requests and explained that the Exceptional Item requests are for additional funding over and above the base funding level for the agency. She then introduced Ms. Bolin and asked her to review the request for an increase in the Board's portion of the funding for the PRN program. (TAB 1) Ms. Bolin reviewed the request for an increase in funding and answered questions from the Executive Committee. Ms. Bolin then left the meeting.

Ms. Dodson reviewed the Exceptional Item requests that will be a part of the FY2014-2015 Legislative Appropriations Request (LAR) for the agency (TAB 2). She highlighted those items that had changed since the full Board reviewed the LAR at the May 8, 2012, Board meeting as follows:
Executive Committee Meeting

¹See corresponding attachments for supporting materials.

- Exceptional Item #1 – Ms. Dodson pointed out that the item titled “Web Redesign & Accessibility” will be removed from this Exceptional Item request since the Health Professions Council (HPC) will request funding for a full-time Web Administrator that will be shared by HPC member agencies.
- Exceptional Item #3 – Ms. Dodson explained that this item is \$652,680 more than the request presented to the Board at the May 8, 2012, Board meeting. She explained that most of the increase is because of the estimated cost for the agency to move from the William P. Hobby State Office Building to private leased office space. Staff is recommending the agency move to private leased space because no additional office space is available in any state office building and the cost to remodel our current space is more than twice the cost to obtain leased office space.

After discussion Buford T. Abeldt, Sr., R.Ph. moved to approve the proposed Exceptional Items for the FY2014-2015 LAR with the changes outlined by Ms. Dodson and to give Ms. Dodson and/or President Waggener the authority to approve any additional changes that arise during the legislative session. The motion was seconded by Dennis F. Wiesner, R.Ph and passed unanimously.

President Waggener adjourned the meeting at 12:27 p.m.

APPROVED:

President Jeanne D. Waggener, R.Ph.

Gay Dodson, R.Ph.
Executive Director/Secretary

August 7, 2012

**Professional Recovery Network
FY 2014 Through 2015 Budget**

Object of Expense	FY 2012 (9/1/11- 8/31/12)	FY 2013 (9/1/12- 9/1/13)	FY 2014 (9/1/13- 8/31/14)	FY 2015 (9/1/14- 8/31/15)	
Advertising/Marketing	6,700	6,700	4,100	4,100	
PRN Brochures, Marketing Materials for Schools					
Staff Training and Development	4,475	4,475	4,200	4,200	Includes previous Categories of PRN Training and Professional Continuing Education
Dues and Subscriptions	320	320	500	500	Includes previous Category of Dues & Subscriptions/Licenses
License Renewal/NASW					
Evaluations and Referrals	16,000	16,000	20,000	20,000	Pharmacy PT increase plus increase in cost of evaluations
Estimated ~40 new pharmacy PTs in FY14					
Meals & Entertainment	0	0	720	720	Business Meetings
Meeting Expenses: Facilities	6,700	6,700	4,000	4,000	Includes previous general Category of Meetings
Meeting Expenses: Food	*	*	3,500	3,500	
Meeting Expenses: Speakers	*	*	600	600	
Meeting Expenses: Technology	*	*	0	0	
Office Supplies	1,400	1,400	1,500	1,500	
Outside Servies/Contract Labor	0	0	8,000	8,000	Rebranding Website, Website Maintenance, IT Support, Hosting Fees for Webinars
Postage	4,000	4,000	1,200	1,200	
Printing	300	300	500	500	
Professional Fees: MRO	5,500	5,500	3,600	3,600	
Professional Fees: Accouting (Audit)	4,250	4,250	8,700	8,700	Includes PRN Performance Audit and TPA Financial Audit (Previous didn't include TPA Audit portion)
Professional Fees: Legal	0	0	8,200	8,200	No previous budget included
Overhead	15,030	15,030	24,356	24,356	Includes previous Categories of Equipment/Rental, Repair/Maintenance and Rent, Storage
Salaries	85,725	85,725	110,000	110,000	Includes previous Category of Insurance/Retirement
Increase Staff by 1, Cost of Living Raise Per Yr					
Taxes	5,950	5,950	6,000	6,000	
Telephone/Internet: Ofc & Emergency Cell	3,200	3,200	4,384	4,384	
Travel	4,500	4,500	7,200	7,200	2 Staff to Utah
Schools, IFCs, Utah					
Total Object of Expenses	164, 050	164, 050	221, 260	221, 260	FY12-FY13 Budget Also Included \$250 Miscellaneous

Texas State Board of Pharmacy

		Fiscal Year 2014	Fiscal Year 2015	TOTAL
EXCEPTIONAL ITEM #1		RESTORE FUNDING REDUCTIONS		
! Restore Merit		140,090	285,433	425,523
! Computer Equipment & Software Replacement		72,099	90,550	162,649
! Web Redesign & Accessibility		15,000	15,000	30,000
! Vehicle Replacement		58,500	97,500	156,000
! Testing of Compounded Products		50,000	93,639	143,639
! Scanning of Records		54,000	0	54,000
Total Exceptional Item #1		389,689	582,122	971,811

EXCEPTIONAL ITEM #2		NEW BIENNIUM UNFUNDED MANDATES		
! Payroll Health Insurance Contribution - 1%	Total Exceptional Item #2	38,422	38,422	76,845

EXCEPTIONAL ITEM #3		NEW APPROPRIATIONS REQUEST		
! New FTEs				
Salaries		\$ 515,733	\$ 515,733	\$ 1,031,466
Other Operating		\$ 94,076	\$ 67,456	\$ 161,532
Leased Office Space		\$ 400,000	\$ 400,000	\$ 800,000
Vehicle		\$ 58,500	\$ -	\$ 58,500
		\$ 1,068,309	\$ 983,189	\$ 2,051,498
	Increase in FTEs	10	10	
Payroll Health Insurance Contribution - 1%		\$ 5,157	\$ 5,157	\$ 10,315
		\$ 1,073,466	\$ 988,346	\$ 2,061,813

Asst Chief of Comp - RPH II B28
 Field Investigator V B20
 Field Investigator V B20
 Inspector VI B19
 Litigation Managing Atty - Attny V B29
 Litigation Analyst/Invest - Prog Spec V B21
 Education Specialist III B21
 Systems Analyst II B18

Licensing & Permit Specialist IV A18
 Licensing & Permit Specialist IV A18

Texas State Board of Pharmacy

	Fiscal Year 2014	Fiscal Year 2015	TOTAL
! Regulatory Database	54,314	54,314	108,628
! Health Professions Council Transfer			
! Pharmacist Recovery Network	49,541	59,386	108,927
! Increase in Executive Director's Salary	33,500	33,500	67,000
Total Exceptional Item #3	1,210,821	1,135,546	2,346,368

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Exceptional Items - Total

1,638,933 1,756,091 3,395,024