

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

**November 18, 2008**

**MINUTES**<sup>1</sup>

President W. Benjamin Fry, R.Ph., called the meeting to order at 9:04 a.m. Other Board Members present were Vice President Kim A. Caldwell, R.Ph.; Treasurer Jeanne Waggener, R.Ph.; Buford T. Abeldt, Sr., R.Ph.; Rosemary Forester Combs; L. Suzan Kedron; Alice Mendoza, R.Ph.; and Dennis F. Wiesner, R.Ph.

Board Member Marcelo Laijas, Jr. was not present.

Staff present were Gay Dodson, R.Ph., Executive Director/Secretary; Carol Fisher, R.Ph., M.P.A., Director of Enforcement; Paul Holder, R.Ph., Pharm.D., Assistant Director of Enforcement; Cathy Stella, Director of Licensing and Administrative Services; Kerstin Arnold, General Counsel; Julie Hildebrand, Litigation Counsel; Mitra Woody, Staff Attorney; Caroline Hotchkiss, Staff Attorney; Allison Benz, R.Ph., M.S., Director of Professional Services; and Kay Wilson, Executive Assistant.

Also present was Legal Intern Penny Phenix.

**A. Announcements**

- President Fry made general announcements.
- Announcements were made concerning Board Members and staff.
- Ms. Benz made an announcement concerning continuing education credit for attending the Board Meeting.

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<sup>1</sup>See agenda and corresponding attachments for supporting materials.

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

Following discussion, the motion was made by Ms. Waggener to approve the minutes of the TSBP Public Hearing and Board Business Meeting, held August 5-6, 2008. The motion was seconded by Ms. Kedron and passed unanimously.

**C. Discussion of and Possible Action Regarding Rules**

Final Adoption of Rules

- Rules Concerning Applications for Reissuance or Removal of Restrictions of a License (§281.66) (Tab 2)

Ms. Benz directed the Board's attention to proposed amendments to §281.66 and explained that the Board voted to propose these amendments at its August 5, 2008, meeting. The amendments were published in the September 19, 2008, issue of the *Texas Register*, and no comments were received. She explained that these changes would clarify that the rules regarding reissuance of a license or registration or the removal of restrictions on a license or registration are applicable to pharmacy technicians.

Following discussion and review of the Preamble and Order Adopting Rule, the motion was made by Mr. Caldwell to approve for adoption, as presented, by Board Order, amendments to §281.66. The motion was seconded by Ms. Waggener and passed unanimously.

- Rules Concerning Storage of Drugs (§291.33) (Tab 3)

Ms. Benz directed the Board's attention to proposed amendments to §291.33 concerning storage of drugs and explained that the Board voted to propose these amendments at its August 5, 2008, meeting. The amendments were published in the September 19, 2008, issue of the *Texas Register*, and no comments were received. She explained that the proposed amendments would place all the requirements for the storage of drugs in one section of the rules.

Following discussion and review of the Preamble and Order Adopting Rule, the motion was made by Ms. Mendoza to approve for adoption, as presented, by Board Order, amendments to §291.33. The motion was seconded by Mr. Wiesner and passed unanimously.

- Rules Concerning Continuing Education Requirements for Pharmacists (§295.8) (Tab 4)

Ms. Benz directed the Board's attention to suggested amendments to §295.8 concerning continuing education requirements for pharmacists and explained that the Board voted to propose these amendments at its August 5, 2008, meeting. The amendments were published in the September 19, 2008, issue of the *Texas Register*, and no comments were received. She explained that these amendments would clarify the procedures for pharmacists who have been licensed for 50 years to return to the practice of pharmacy and to conform these rules to other sections relating to pharmacist continuing education.

Following discussion and review of the Preamble and Order Adopting Rule, the motion was made by Ms. Combs to approve for adoption, as presented, by Board Order, amendments to §295.8. The motion was seconded by Mr. Abeldt and passed unanimously.

- Rules Concerning Registration Requirements for Pharmacy Technicians (§297.3) (Tab 5)

Ms. Benz directed the Board's attention to suggested amendments to §297.3 concerning registration requirements for pharmacy technicians and explained that the Board voted to propose these amendments at its August 5, 2008, meeting. The amendments were published in the September 19, 2008, issue of the *Texas Register*, and no comments were received. She explained that the amendments would clarify the requirements for registration as a pharmacy technician trainee and pharmacy technician and that the Board may require such individuals to submit the required information to perform criminal background checks, including fingerprinting.

Following discussion and review of the Preamble and Order Adopting Rule, the motion was made by Ms. Waggener to approve for adoption, by Board Order, as presented, amendments to §297.3. The motion was seconded by Mr. Abeldt and passed unanimously.

- Rules Concerning Criminal Background Checks for Examination and Reciprocity Applicants (§§283.7-283.8) (Tab 6)

Ms. Benz directed the Board's attention to proposed amendments to §§283.7-283.8 concerning examinations and reciprocity requirements and explained that the Board voted to propose these amendments at its August 5, 2008, meeting. The amendments were published in the September 19, 2008, issue of the *Texas Register*, and no comments were received. She explained that the proposed amendments would

clarify that criminal background information, including fingerprinting, may be required for licensure.

Following discussion and review of the Preamble and Order Adopting Rule, the motion was made by Ms. Mendoza to approve for adoption, by Board Order, as presented, amendments to §§283.7-283.8. The motion was seconded by Ms. Waggener and passed unanimously.

#### Proposal of Rules

- Rules Concerning Type-size for Prescription Labels and Written Information; Prescriptions Issued for a Specific Manufacturer or the Same Manufacturer; and Identification of the Dispensing Pharmacist on the Prescription Label (§291.33) (Tab 7)

Ms. Benz directed the Board's attention to suggested rule language to amend §291.33 as follows:

- in response to H.B. 948, passed by the 80<sup>th</sup> Texas Legislature, these amendments would clarify that prescription labels and written information provided to consumers must be printed in a type-size no smaller than 10-point Times Roman;
- in response to recommendations by the NTI committee, these amendments would clarify that prescriptions issued for a specific manufacturer of a generic drug or the same manufacturer must be dispensed as such unless authorization is obtained from the prescriber; and
- in response to a request from HEB, these amendments would clarify that the prescription label is not required to include the identification code or initials of the dispensing pharmacist if the information is stored in the pharmacy's data processing system.

Following discussion, the motion was made by Mr. Caldwell to approve for proposal amendments to §291.33 concerning type-size for prescription labels and written information and identification of the dispensing pharmacist on the prescription label and remove the language concerning prescriptions issued for a specific manufacturer or the same manufacturer. The motion was seconded by Mr. Abeldt and passed unanimously.

### Rule Reviews

- For Proposal

Ms. Benz directed the Board's attention to the TSBP Rule Review Plan for FY2006-2009. (Tab 8)

Ms. Benz directed the Board's attention to the suggested review of Chapter 297 (§§297.1-297.9) concerning pharmacy technicians (Tab 9).

Following discussion, in accordance with Government Code §2001.039, the motion was made by Ms. Mendoza to approve for proposal, as presented, the review of Chapter 297 (§§297.1-297.9). The motion was seconded by Mr. Wiesner and passed unanimously.

### **D. Updates and Reports of Committees/Task Forces**

- Task Force on Class C Pharmacies (Tab 26)

Dr. Holder advised the Board that the third meeting of the Task Force on Class C Pharmacies was held on October 30, 2008. He directed the Board's attention to preliminary recommendations from the task force and reviewed the recommendations for the Board. He advised the Board that the task force would hold one more meeting.

Following discussion and review of the preliminary recommendations of the task force, Ms. Dodson noted that the previously approved list of possible statutory changes includes changing the definition of small hospital, from one with fewer than 101 beds to one with 50 beds or less.

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

- Financial Update
  - Review and Approval of FY2008 Operating Budget (Tab 10)

Ms. Stella reviewed the expenditures for all four quarters of FY2008 (September 1, 2007, through August 31, 2008) for the Board.

Following discussion, the motion was made by Ms. Waggener to approve the FY2008 expenditures, as presented. The motion was seconded by Mr. Abeldt and passed unanimously.

- Report and Discussion Concerning Governor's Request for Reduction in Expenditures (Tab 11) and Review of Board Member Travel Budget (Tab 12)

Ms. Stella directed the Board's attention to a letter from Governor Perry dated October 14, 2008, directing all state agencies to reduce travel expenses. She then directed the Board's attention to the agency's response to the Governor, which stated that TSBP would reduce expenditures for conference travel for FY2009 by 25%, resulting in a budget reduction of \$7,500. Ms. Stella briefly reviewed the Board Member FY2009 Travel Budget, and Ms. Dodson reviewed the changes that were made due to the \$7,500 reduction. Mr. Caldwell and Mr. Wiesner volunteered to give their in-state travel funds to Board staff.

- Update on Legislative Appropriations Request for FY2010-2011, Including Selection of Vendor and Cost for Shared Data Base Project (Tab 13)

Ms. Stella advised the Board that the provider for the shared data base project had been narrowed down to two bidders, GL Suites and Versa. She explained that the six agencies that will cooperate in the project will choose the vendor from these two bidders.

President Fry recessed the meeting at 10:22 a.m.

President Fry reconvened the meeting at 10:42 a.m.

**E. Discussion of and Possible Action Concerning the Following Reports and Discussions (Cont.)**

- Report on TSBP Activities in Response to Hurricane Ike (Tab 19)

Ms. Dodson reported that during the aftermath of Hurricane Ike, the agency activated the rule allowing pharmacists to refill prescriptions on an emergency basis with a 30-day supply and issued two temporary pharmacist licenses.

- Report on House and Senate Interim Committees (Tab 19)

Ms. Dodson advised the Board that TSBP staff had sent written comments to the House Public Health Committee concerning implementation of SB 1879, which was passed during the 80<sup>th</sup> session of the Texas Legislature. This bill deals with the regulation of controlled substances.

- Possible Statutory Changes (Tab 20)

Ms. Dodson reviewed a list of *Recommendations for Legislative Action Approved by the Board* for consideration during the next legislative session.

- Update Concerning Program to Aid Impaired Pharmacists and Pharmacy Students

- Dr. Holder directed the Board's attention to charts showing participation in the peer assistance program. (Tab 14)
- Jennifer Graydon, Director of PRN, directed the Board's attention to the PRN budget for September 1, 2007, through August 31, 2008. She reviewed current PRN activities for the Board. (Tab 15)

#### **F. Consideration of and Possible Action Concerning Enforcement Reports**

- Petition(s) to Serve as a Preceptor

Ms. Fisher directed the Board's attention to petitions from Stephen G. Nepveux, R.Ph. (Tab 21), and Shelly Peters, R.Ph. (Tab 22), who are currently under Board orders, to serve as preceptors. Under Board rule §293.6, no pharmacist who has been the subject of an order of the Board may serve as a preceptor during the period he or she is serving as a preceptor or within the 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. Ms. Fisher reviewed the petitions and supporting documentation for the Board.

A motion was made by Mr. Caldwell that the Board go into Executive Session to consult with legal counsel, under the authority of Texas Government Code, Section 551.074. The motion was seconded by Ms. Waggener and passed unanimously. President Fry declared the Board in Executive Session at 11:34 a.m.

At 11:40 a.m., President Fry announced that the Board would resume the meeting in Open Session. President Fry announced that no action was taken and no decisions were made during Executive Session.

The motion was made by Mr. Caldwell that the Board not approve the petition of Stephen G. Nepveux, R.Ph., to serve as a preceptor. The motion was seconded by Ms. Waggener and passed 6-0-1. Mr. Wiesner abstained.

The motion was made by Ms. Kedron that the Board not approve the petition of Shelly Peters, R.Ph., to serve as a preceptor. The motion was seconded by Ms. Waggener and passed unanimously.

President Fry recessed the meeting at 11:43 a.m.

President Fry reconvened the meeting at 12:22 p.m.

- Report on Complaints Closed and Dismissed During the Previous Quarter (Tab 23)

The Board received a report on complaints dismissed and closed during FY2008 (September 1, 2007 – August 31, 2008). The report also included quarterly averages for FY2007 as compared to FY2008, as well as percentage of change from FY2007 to FY2008. Ms. Fisher reviewed the report for the Board.

- Report on Status of Active/Pending Complaints (Tab 24)

The Board received a *Report on Status of Active/Pending Complaints*. Ms. Fisher reviewed the report for the Board.

#### **G. Disciplinary Orders**

- Discussion of and Action on Proposed Agreed Board Orders and Default Orders

The Board received and reviewed a list of 26 Agreed Board Orders for pharmacy technicians and pharmacy technician trainees following informal conferences, which were held on:

- February 21, 2008 (one Order);
- July 24, 2008 (one Order);
- August 21, 2008 (seven Orders);

- September 18, 2008 (eight Orders); and
- October 23, 2008 (nine Orders).

The Board also received a list of nine Default Orders for pharmacy technicians and pharmacy technician trainees who did not appear for informal conferences.

The motion was made by Mr. Caldwell to approve the 26 Agreed Board Orders for pharmacy technicians and pharmacy technician trainees following informal conferences and the nine Default Board Orders for pharmacy technicians and pharmacy technician trainees. The motion was seconded by Ms. Waggener and passed 7-0-0.

- Report on Agreed Board Orders Entered by Executive Director
  - The Board received and reviewed a list of 52 Technician Agreed Board Orders (Alternative Resolution and Falsification) that had been signed by the Executive Director on behalf of the Board in accordance with their directives during the period August 4, 2008, through November 7, 2008.

President Fry recessed the meeting at 1:28 p.m.

President Fry reconvened the meeting at 1:55 p.m.

- Discussion of and Action on Proposed Agreed Board Orders and Default Orders
  - The Board received notebooks containing 100 Agreed Board Orders for pharmacists, pharmacies, student pharmacist-interns, and pharmacy technicians, 15 of which were Confidential Agreed Board Orders.

Ms. Woody reviewed the alleged violations, as well as the recommended sanctions for each of the following Board Orders (Alternative Resolution) concerning pharmacists, pharmacies, student pharmacist-interns, and pharmacy technicians.

1. Nick Nhut Minh Duong ABO #E-08-005

The motion was made by Ms. Waggener to approve the Order as presented. The motion was seconded by Mr. Caldwell and passed 7-0-0.

2. Melinda Faye Hargrove ABO #H-08-031-A
3. Walgreen Co. #05094 ABO #H-08-031-B

The motion was made by Ms. Mendoza to approve the Orders as presented. The motion was seconded by Ms. Kedron and passed 7-0-0.

4. Ijeoma Grace Okeke ABO #H-08-008-A
5. CVS/pharmacy #7713 ABO #H-08-008-B

The motion was made by Ms. Waggener to approve the Orders as presented. The motion was seconded by Mr. Caldwell and passed 7-0-0.

6. Lynn Arthur Leverton ABO #H-06-032-A
7. CVS/pharmacy #2976 ABO #H-06-032-B

The motion was made by Ms. Waggener to approve the Orders as presented. The motion was seconded by Ms. Mendoza and passed 7-0-0.

8. Coy Ronald Williamson ABO #H-08-005-A
9. Red River Pharmacy Services ABO #H-08-005-B

The motion was made by Ms. Mendoza to approve the Orders as presented. The motion was seconded by Ms. Kedron and passed 7-0-0.

10. Manuel Morin ABO #J-08-003

The motion was made by Mr. Caldwell to approve the Order as presented. The motion was seconded by Ms. Mendoza and passed 7-0-0.

11. Brookshire Bros. Pharmacy #61 ABO #H-08-004

The motion was made by Ms. Waggener to approve the Order as presented. The motion was seconded by Mr. Abeldt and passed 7-0-0.

12. M'Liss Vogler Nelsen ABO #H-08-032-A
13. H.E.B. Pharmacy #591 ABO #H-08-032-B

The motion was made by Mr. Caldwell to approve the Orders as presented. The motion was seconded by Ms. Mendoza and passed 6-0-1. Mr. Wiesner abstained.

- 14. Herbert L. Miller ABO #J-06-014-A
- 15. Walgreen Co. #4417 ABO #J-06-014-B

The motion was made by Ms. Mendoza to approve the Orders as presented. The motion was seconded by Mr. Abeldt and passed 7-0-0.

- 16. Sany Prasad Vattakunnel ABO #H-06-014-A
- 17. Walgreen Co. #5377 ABO #H-06-014-B

The motion was made by Mr. Abeldt to approve the Orders as presented. The motion was seconded by Ms. Combs and passed 7-0-0.

- 18. Walgreen Co. #6390 ABO #H-08-027

The motion was made by Mr. Abeldt to approve the Order as presented. The motion was seconded by Ms. Waggener and passed 7-0-0.

- 19. Wal-Mart Pharmacy #10-2978 ABO #H-08-009

The motion was made by Mr. Caldwell to approve the Order as presented. The motion was seconded by Ms. Mendoza and passed 6-0-1. Ms. Waggener abstained.

- 20. Sandra Lee Funderburk ABO #H-06-049-A
- 21. Wal-Mart Pharmacy #10-746 ABO #H-06-049-B

The motion was made by Ms. Mendoza to approve the Orders as presented. The motion was seconded by Mr. Abeldt and passed 6-0-1. Ms. Waggener abstained.

- 22. Richard William McMahon ABO #H-07-035-A
- 23. Randall's Pharmacy #1776 ABO #H-07-035-B

The motion was made by Ms. Waggener to approve the Orders as presented. The motion was seconded by Ms. Mendoza and passed 7-0-0.

- 24. Peter Timothy Berlin ABO #K-08-016-A
- 25. Healthsouth Rehabilitation Hospital of Austin ABO #K-08-016-B

The motion was made by Ms. Kedron to approve the Orders as presented. The motion was seconded by Mr. Wiesner and passed 7-0-0.

- 26. Carol P. Fawcett ABO #J-07-020-A
- 27. Walgreen Co. #6517 ABO #J-07-020-B

The motion was made by Ms. Mendoza to approve the Orders as presented. The motion was seconded by Ms. Kedron and passed 7-0-0.

- 28. Javier Christian Fuentes ABO #H-08-028-A
- 29. H.E.B. Pharmacy #229 ABO #H-08-028-B

The motion was made by Mr. Abeldt to approve the Orders as presented. The motion was seconded by Mr. Caldwell and passed 6-0-1. Mr. Wiesner abstained.

- 30. Chikezie Ikenna Iwundu ABO #J-07-019-A
- 31. Walgreen Co. #7720 ABO #J-07-019-B

The motion was made by Ms. Waggener to approve the Orders as presented. The motion was seconded by Ms. Kedron and passed 7-0-0.

- 32. Tomy Lukose ABO #H-08-013-A
- 33. Wal-Mart Pharmacy #10-5191 ABO #H-08-013-B

The motion was made by Ms. Mendoza to approve the Orders as presented. The motion was seconded by Mr. Caldwell and passed 6-0-1. Ms. Waggener abstained.

- 34. Walgreen Co. #5375 ABO #H-07-024-B

The motion was made by Mr. Abeldt to approve the Order as presented. The motion was seconded by Ms. Combs and passed 7-0-0.

35. Cheryl Lynne Kieke Barron ABO #H-07-037-A  
36. H.E.B. Pharmacy #428 ABO #H-07-037-B

The motion was made by Ms. Mendoza to approve the Orders as presented. The motion was seconded by Mr. Caldwell and passed 6-0-1. Mr. Wiesner abstained.

Ms. Woody and Ms. Hotchkiss reviewed the alleged violations, as well as the recommended sanctions for each of the following Agreed Board Borders (following an Informal Conference) concerning pharmacists, pharmacies, students, pharmacist-interns, and pharmacy technicians.

37. Yvonne Michelle Margo ABO #H-06-047

The motion was made by Mr. Caldwell to approve the Order as presented. The motion was seconded by Ms. Kedron and passed 6-0-1. Ms. Combs abstained.

38. Salwan A. Toumajian ABO #C-06-003  
39. Don Quoc Nguyen ABO #C-08-009

The motion was made by Ms. Mendoza to approve the Orders as presented. The motion was seconded by Ms. Waggener and passed 6-0-1. Ms. Combs abstained.

40. Allison Kay Hollins ABO #K-08-003-A

The motion was made by Mr. Wiesner to approve the Order as presented. The motion was seconded by Ms. Waggener and passed 6-0-1. Ms. Combs abstained.

41. Paul M. Karam ABO #H-07-015-A

The motion was made by Ms. Mendoza to approve the Order as presented. The motion was seconded by Mr. Caldwell and passed 6-0-1. Ms. Combs abstained.

42. The Institute for Rehabilitation & Research ABO #B-05-026

The motion was made by Mr. Caldwell to approve the Order as presented. The motion was seconded by Mr. Wiesner and passed 6-0-1. Ms. Combs abstained.

43. CVS/pharmacy #5968 ABO #B-08-026

The motion was made by Mr. Abeldt to approve the Order as presented. The motion was seconded by Ms. Mendoza and passed 6-0-1. Ms. Combs abstained.

44. CVS/pharmacy #7249 ABO #B-07-031

The motion was made by Ms. Waggener to approve the Order as presented. The motion was seconded by Mr. Abeldt and passed 6-0-1. Ms. Combs abstained.

45. Judith Esther G. Alexander ABO #C-07-018  
46. Edna R. Hernandez ABO #C-07-016-A  
47. J & A Pharmacy ABO #C-07-016-B

The motion was made by Ms. Mendoza to approve the Orders as presented. The motion was seconded by Ms. Waggener and passed 6-0-1. Ms. Combs abstained.

48. Hospice of East Texas ABO #B-08-040  
Homeplace Pharmacy

The motion was made by Mr. Caldwell to approve the Order as presented. The motion was seconded by Ms. Waggener and passed 6-0-1. Ms. Combs abstained.

49. Daniel David Vela ABO #A-06-011-A  
50. Lee's Pharmacy & Medical ABO #A-06-011-B  
Equipment Company

The motion was made by Ms. Waggener to approve the Orders as presented. The motion was seconded by Mr. Wiesner and passed 6-0-1. Ms. Combs abstained.

51. Thomas Denton Jefferson ABO #B-08-025-A  
52. U.S. Drug Mart No. 4 ABO #B-08-025-B

The motion was made by Mr. Abeldt to approve the Orders as presented. The motion was seconded by Ms. Mendoza and passed 6-0-1. Ms. Combs abstained.

53. H.E.B. Pharmacy #011 ABO #B-07-027

The motion was made by Mr. Caldwell to approve the Order as presented. The motion was seconded by Mr. Abeldt and passed 4-0-3. Ms. Combs, Ms. Waggener, and Mr. Wiesner abstained.

54. CVS/pharmacy #7198 ABO #B-07-026

The motion was made by Ms. Waggener to approve the Order as presented. The motion was seconded by Mr. Abeldt and passed 6-0-1. Ms. Combs abstained.

55. CVS/pharmacy #7719 ABO #K-08-020

The motion was made by Mr. Caldwell to approve the Order as presented. The motion was seconded by Ms. Waggener and passed 6-0-1. Ms. Combs abstained.

56. Lifecek #27 ABO #B-07-068-B

The motion was made by Ms. Mendoza to approve the Order as presented. The motion was seconded by Ms. Waggener and passed 6-0-1. Ms. Combs abstained.

57. Brett Alan Winklepleck ABO #H-07-011-A  
58. Augustine Kwadwo Opong ABO #H-08-016  
59. Long Nguyen Le ABO #H-07-010  
60. CVS/pharmacy #4794 ABO #H-07-011-B

The motion was made by Mr. Caldwell to approve the Orders as presented. The motion was seconded by Ms. Waggener and passed 6-0-1. Ms. Combs abstained.

61. Tiffany Andrenette Buchannon ABO #H-08-037-A  
62. Christus Spohn Hospital ABO #H-08-037-B  
Corpus Christi - South

The motion was made by Ms. Waggener to approve the Orders as presented. The motion was seconded by Mr. Caldwell and passed 5-0-2. Ms. Combs and Ms. Mendoza abstained.

63. Sherry S. Krouse ABO #A-08-010

The motion was made by Ms. Waggener to approve the Order as presented. The motion was seconded by Mr. Wiesner and passed 6-0-1. Ms. Combs abstained.

64. Jimmie Joe Williams Jr. ABO #B-08-015

The motion was made by Ms. Waggener to approve the Order as presented. The motion was seconded by Ms. Mendoza and passed 5-0-2. Ms. Combs and Mr. Wiesner abstained.

65. John Milburn McNeill Jr. ABO #B-08-030-A  
66. Nichols Southside Pharmacy ABO #B-08-030-B

The motion was made by Ms. Waggener to approve the Orders as presented. The motion was seconded by Mr. Abeldt and passed 6-0-1. Ms. Combs abstained.

67. Elmer Lee Richardson ABO #L-08-022

The motion was made by Ms. Mendoza to approve the Order as presented. The motion was seconded by Mr. Wiesner and passed 6-0-1. Ms. Combs abstained.

68. Gary Keith Torres ABO #B-07-065-A  
69. T & T Pharmacy, Inc. ABO #B-07-065-B

The motion was made by Ms. Waggener to approve the Orders as presented. The motion was seconded by Mr. Caldwell and passed 6-0-1. Ms. Combs abstained.

70. Binh H. Le ABO #B-07-037-A  
71. Lan Ngoe Tran ABO #B-08-033  
72. Xavier Pharmacy & Medical Supply ABO #B-07-037-B

The motion was made by Mr. Caldwell to approve the Orders as presented. The motion was seconded by Mr. Wiesner and passed 6-0-1. Ms. Combs abstained.

73. Crystal Farfan Barajas ABO #C-07-011-T

The motion was made by Ms. Combs to approve the Order as presented. The motion was seconded by Mr. Abeldt and passed 6-0-1. Ms. Waggener abstained.

74. Chelsie Nicole Elrod ABO #T-07-291

The motion was made by Ms. Waggener to approve the Order as presented. The motion was seconded by Ms. Kedron and passed 6-0-1. Ms. Combs abstained.

75. Ifeoma Carol Chukwukelu ABO #C-07-008  
76. Eufracia Fiscal ABO #T-08-084

The motion was made by Ms. Mendoza to approve the Orders as presented. The motion was seconded by Ms. Waggener and passed 6-0-1. Ms. Combs abstained.

77. Howard Yale Klein ABO #E-07-033

The motion was made by Ms. Waggener to approve the Order as presented. The motion was seconded by Ms. Mendoza and passed 6-0-1. Ms. Combs abstained.

78. Luke Wayne Satterwhite ABO #A-05-014

The motion was made by Mr. Caldwell to approve the Order as presented. The motion was seconded by Ms. Waggener and passed 6-0-1. Ms. Mendoza abstained.

79. Thomas Register ABO #A-08-001

The motion was made by Ms. Mendoza to approve the Order as presented. The motion was seconded by Ms. Waggener and passed 6-0-1. Ms. Combs abstained.

Ms. Hotchkiss reviewed the alleged violations, as well as the recommended sanctions for each of the following Default Board Orders concerning pharmacists, pharmacies, students, pharmacist-interns, and pharmacy technicians.

80. Jeffrey Paul Kidneigh BO #T-07-558

The motion was made by Ms. Waggener to approve the Order as presented. The motion was seconded by Mr. Abeldt and passed 6-0-1. Ms. Waggener abstained.

81. East Pointe Pharmacy Services, Inc. BO #E-07-012

The motion was made by Ms. Waggener to approve the Order as presented. The motion was seconded by Mr. Abeldt and passed 6-0-1. Mr. Wiesner abstained.

82. Med-Care Infusion Services, Inc. BO #E-07-014

The motion was made by Ms. Waggener to approve the Order as presented. The motion was seconded by Mr. Abeldt and passed 6-0-1. Mr. Wiesner abstained.

83. Reliance Pharmaceutical, Inc. BO #E-07-018

The motion was made by Ms. Waggener to approve the Order as presented. The motion was seconded by Mr. Abeldt and passed 6-0-1. Mr. Wiesner abstained.

84. SWS Pharmacy Services, Inc. BO #E-07-020

The motion was made by Ms. Waggener to approve the Order as presented. The motion was seconded by Mr. Abeldt and passed 6-0-1. Mr. Wiesner abstained.

85. Tri-Phasic Pharmacy, Inc. BO #E-07-026

The motion was made by Ms. Waggener to approve the Order as presented. The motion was seconded by Mr. Abeldt and passed 6-0-1. Mr. Wiesner abstained.

President Fry recessed the meeting at 1:28 p.m.

President Fry reconvened the meeting at 1:55 p.m.

**E. Discussion of and Possible Action Concerning the Following Reports and Discussions (Cont.)**

- Consideration of Providers of Pharmacy Technician Certification Examinations

Ms Dodson explained that currently the only pharmacy technician certification examination recognized by TSBP is administered by the Pharmacy Technician Certification Board (PTCB). She advised the Board that the Institute for the Certification of Pharmacy Technicians (ICPT) was seeking approval of their examination by the Board. She explained that ICPT had previously appeared before the Board seeking this approval.

- Institute for the Certification of Pharmacy Technicians (Tab 16)

The Board received a PowerPoint presentation from Kenneth W. Schafermeyer, R.Ph., Ph.D., Director of Education, ICPT; and Rebecca M. Rabbitt, Pharm.D., Chief Operating Officer, ICPT, concerning the ICPT examination. Dr. Schafermeyer and Dr. Rabbitt answered questions posed by the Board.

- Pharmacy Technician Certification Board (Tab 17)

The Board received a presentation from Melissa Muir Corrigan, R.Ph., Executive Director/Chief Operating Officer, PTCB, concerning the PTCB examination. Ms. Corrigan answered questions posed by the board.

- Public Comments (Tab 18)

The Board received comments from the following individuals:

- Joe Harmison, R.Ph., representing the National Community Pharmacists Association (NCPA);
- Mary Staples, representing the National Association of Chain Drug Stores (NACDS);
- Paul Davis, representing the Texas Society of Health-System Pharmacists (TSHP);

- Jim Martin, representing the Texas Pharmacy Association (TPA); and
- Chris Alvarado, a student from Incarnate Word University.

Following discussion, the motion was made by Mr. Caldwell that the President appoint a committee of the Board to determine whether the Board should use two examinations or only one; if necessary, assess both examinations and enlist individuals to take both examinations; and develop recommendations to be presented to the Board at a future meeting. The motion was seconded by Ms. Waggener and passed unanimously.

Ms. Waggener, Ms. Mendoza, and Ms. Combs volunteered to serve on the subcommittee.

President Fry recessed the meeting at 3:32 p.m.

President Fry reconvened the meeting at 3:50 p.m.

#### H. Miscellaneous

- Items to be Placed on Agenda for February 2009 Board Meeting (Tab 25)

Board Members and/or Ms. Dodson requested the following items be placed on the agenda for the February 2009 or future Board Meetings:

- Report on legislation filed to date that affects TSBP; and
- Report of Task Force on Class C Pharmacies.
- Discussion of and Possible Action on Recent Conferences and Events

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

- Discussion of and Possible Action on Upcoming Conferences and Events (Tab 26)

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

**G. Disciplinary Orders**

- Discussion of and Action on Proposed Agreed Board Orders and Default Orders
  - Executive Session to Consider Confidential Agreed Board Orders

Ms. Kedron made a motion that the Board go into Executive Session to consider Agreed Board Orders involving impaired pharmacists, pharmacist applicants, and pharmacist interns, under the authority of the Texas Pharmacy Act, Section 564.002. The motion was seconded by Mr. Caldwell and passed 7-0-0.

President Fry declared the Board in Executive Session at 4:07 p.m.

At 4:21 p.m., President Fry announced that the Board would resume the meeting in Open Session. President Fry announced that no action was taken and no decisions were made during Executive Session.

Ms. Kedron made motions to approve the following confidential Orders:

1. ABO #G-08-027
2. ABO #M-08-014
3. ABO #M-08-015
4. ABO #M-08-016
5. ABO #N-08-008
6. ABO #N-08-012
7. ABO #G-08-009
8. ABO #A-08-008
9. ABO #S-08-003
10. ABO #G-08-002
11. ABO #M-08-017
12. ABO #G-07-003
13. ABO #N-08-013
14. ABO #M-08-003

and to disapprove the following confidential Order:

1. ABO #N-08-011

The motions were seconded by Ms. Combs and passed as follows:

Approved Orders

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

Disapproved Order

1. 7-0-0.

A motion was made by Mr. Caldwell that Mr. Brotherton, the subject of ABO #N-08-011, be advised that the Board had disapproved his Agreed Board Order that he would need to attend an informal conference. The motion was seconded by Ms. Kedron and passed unanimously.

President Fry adjourned the meeting at 4:25 p.m.

APPROVED:

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W. Benjamin Fry, R.Ph.  
President

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Gay Dodson, R.Ph.  
Executive Director/Secretary

February 10, 2009