



TEXAS STATE BOARD OF PHARMACY

October 25, 2010

**Minutes of the Temporary Suspension Hearing
of H & W Pharmacy and Victor Chinedu Egbulefu, R.Ph.**

Chair Dennis F. Wiesner, R.Ph., called the meeting to order at 10:08 a.m., in conference room number 400A, Tower II, 333 Guadalupe Street, Austin, Texas 78701. Board Members, Joyce A. Tipton, R.Ph., and Charles F. Wetherbee, J.D. were also present.

Staff present: Gay Dodson, R.Ph., Executive Director; Kerstin E. Arnold, General Counsel; Julie C. Hildebrand, Litigation Counsel; Robert Ebrom, Chief Investigator; Shawn Clark, Field Investigator; Larry Brothers, Field Investigator; Ann Driscoll, Legal Assistant; and Cheryl Watkins, Legal Assistant.

Respondent: H & W Pharmacy and Victor Chinedu Egbulefu, R.Ph., represented by Don E. Lewis.

Also present: Matt Vitek, Pharmacist Intern; Julia R. Ward, M.D., of Tejas Urgent Care Clinic, Inc.; Nekisha Griffin, A.P.N., of Tejas Urgent Clinic, Inc.; and Luis Soriano, Owner of H & W Pharmacy and Tejas Urgent Care Clinic.

Court Reporter: Rebecca Callow.

A. Opening:

The Chair called the case of the Application for the Temporary Suspension in the Matter of the pharmacy license #26801 issued to H & W Pharmacy and the pharmacist license #46877 issued to Victor Chinedu Egbulefu. He inquired into whether or not a panel member wished to be recused. All panel members responded negatively.

The Chair requested the parties to go on record stating their names and who they are representing.

Board Staff: Julie Hildebrand, attorney for the Board Staff.

Respondent: Don E. Lewis, attorney for H & W Pharmacy and Victor Chinedu Egbulefu, R.Ph.

B. Presentation by Board's Attorney, Julie Hildebrand:

1. Verbal synopsis of allegations.
2. Introduction of documents into evidence. All admitted.

3. Testimony of witnesses: Victor Chinedu Egbulefu, R.Ph. and Warren DeForge, R.Ph. (via teleconference).
4. Testimony of Board witnesses: Shawn Clark, Field Investigator; Robert Ebrom, Chief Investigator; and Larry Brothers, Field Investigator.
5. Closing Statement.

Presentation by Respondent's Attorney, Don E. Lewis:

1. Opening statement.
2. Presentation of information and documents.
3. Testimony of witnesses: Victor Chinedu Egbulefu, R.Ph.; Julia R. Ward, M.D.; and Nekisha Griffin, A.P.N.
4. Closing Statement.

C. Motions

1. A motion was made by Mr. Wetherbee to go into Executive Session pursuant to the Open Meetings Act, Section 551.071 of the Government Code, and Section 552.011 of the Texas Pharmacy Act, to deliberate regarding the disciplinary proceedings. Ms. Tipton seconded the motion. The motion passed unanimously.

(The Board members went into Executive Session at 8:30 p.m.)

Chair Wiesner reconvened the meeting at 9:07 p.m., and announced that no action was taken during Executive Session.

2. A motion was made by Mr. Wetherbee that the Application for the Temporary Suspension of the pharmacy license #26801 issued to H & W Pharmacy and the pharmacist license #46877 issued to Victor Chinedu Egbulefu, R.Ph. be granted, in that the evidence and information indicated that the operation of H & W Pharmacy and the practice of pharmacy by Mr. Egbulefu are a continuing threat to the public welfare, and recommended that the orders of suspension remain in effect until superseded by subsequent orders of the Board. Ms. Tipton seconded the motion. The motion passed unanimously with the Temporary Suspension Orders to be adopted effective immediately.

The Chair announced that the pharmacy license #26801 issued to H & W Pharmacy and the pharmacist license #46877 issued to Victor Chinedu Egbulefu are suspended.

3. A motion was made by Chair Wiesner to adjourn. Ms. Tipton seconded the motion. The motion passed unanimously.

Chair Wiesner adjourned the hearing at 9:11 p.m.

APPROVED:

Dennis F Wiesner, R.Ph.
Chair

Gay Dodson, R.Ph.
Executive Director/Secretary



TEXAS STATE BOARD OF PHARMACY

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

November 9, 2010

MINUTES¹

Tuesday, November 9, 2010

President Jeanne D. Waggener, R.Ph., called the meeting to order at 9:00 a.m. Other Board Members present were Buford T. Abeldt, Sr., R.Ph.; L. Suzan Kedron; Dennis F. Wiesner, R.Ph.; W. Benjamin Fry, R.Ph.; Rosemary Forester Combs; Joyce A. Tipton, R.Ph.; and Charles Wetherbee.

Board Member Alice Mendoza, R.Ph., was 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; Julie Hildebrand, Litigation Counsel; Caroline Hotchkiss, Staff Attorney; Linda Townsend, Staff Attorney; Ben Santana, R.Ph., Chief of Compliance, and Becky Damon, Executive Assistant.

A. Announcements

- President Waggener 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.

¹See 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 Mr. Fry to approve the minutes of the TSBP Board Business Meeting, held August 10-11, 2010, 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 Examination (§281.6) (Tab 02)

Ms. Benz explained that the Board voted to propose the amendments to §281.6 during its August 10-11, 2010, meeting. The proposed amendments were published in the October 1, 2010, 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 mental or physical examinations.

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

- New Rule Concerning Subpoenas (§281.23); and Rules Concerning Burden of Proof (§281.31) (Tab 03)

Ms. Benz explained that the Board voted to propose new rule §281.23 and amendments to §281.31 during its August 10-11, 2010, meeting. The proposed new rule and proposed amendments were published in the October 1, 2010, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to new rule §281.23 and explained that the new rule outlines the guidelines for issuing and requesting subpoenas. Ms. Benz explained that the amendments to §281.31 clarify the applicant's, licensee's, or registrant's burden of proof.

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, new rule §281.23 and amendments to §281.31. The motion was seconded by Ms. Tipton and passed unanimously.

- Rules Concerning Disciplinary Guidelines (§§281.60, 281.63 and 281.64) (Tab 04)

Ms. Benz explained that the Board voted to propose the amendments to §§281.60, 281.63 and 281.64, during its August 10-11, 2010, meeting. The proposed amendments were published in the October 1, 2010, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to amendments to §§281.60, 281.63 and 281.64, and explained that the amendments clarify disciplinary guidelines for use in informal conferences and proceedings before the State Office of Administrative Hearings.

Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Mr. Fry to approve for adoption, by Board Order, amendments to §§281.60, 281.63 and 281.64. The motion was seconded by Ms. Kedron and passed unanimously.

- Rules Concerning Electronic Verifications of Prescription Data Entry by a Pharmacist at Another Location (§291.32) and Rules Concerning Generic Substitution (§291.33) (Tab 05)

Ms. Benz explained that the Board voted to propose the amendments to §§291.32 and 291.33 during its August 10-11, 2010, meeting. The proposed amendments were published in the October 1, 2010, issue of the *Texas Register*, and comments were received from the National Association of Chain Drug Stores (NACDS)

NACDS expressed concern with the proposed amendments because the amendments would require every pharmacist in a Class E (Non-resident) pharmacy to sign a written contract or agreement in order to perform electronic data entry verifications. NACDS further commented that the proposed amendments are more restrictive than what is currently required of pharmacist conducting electronic verification of data entry in Class E pharmacies as outlined in §291.123 regarding Central Prescription Drug or Medication Order Processing.

Ms. Benz directed the Board's attention to two versions of amendments to §§281.32 and 291.33 and explained that the amendments: (1) clarify the requirements for pharmacists conducting electronic verifications of prescriptions from a site other than the pharmacy and allow the pharmacist not to have a Texas pharmacist license if the pharmacist is employed by a Class E (Non-resident) pharmacy; (2) remove references to dates no longer needed; (3) correct a reference to supportive personnel to pharmacy technicians and pharmacy technician trainees, and (4) delete the

language regarding generic substitution since this language is repetitive of language in Chapter 309. Ms. Benz explained that version #1 was the proposed rules as published in the October 1, 2010, issue of the *Texas Register*, and version #2 was the proposed rules with changes recommended by NACDS.

Following discussion and review of the two versions of the rules, and review of the Preambles and Orders Adopting Rules, the motion was made by Ms. Tipton to approve for adoption, by Board Order, version #2 of the amendments to §§291.32 and 291.33. The motion was seconded by Mr. Wiesner and passed unanimously.

- Rules Concerning Tech-Check-Tech (§§291.72 and 291.73) (Tab 06)

Ms. Benz explained that the Board voted to propose the amendments to §§291.72 and 291.73 during its August 10-11, 2010, meeting. The proposed amendments were published in the October 1, 2010, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to amendments to §§291.72 and 291.73 and explained that the amendments clarify the requirements for the clinical programs when pharmacies are using tech-check-tech.

Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Mr. Fry to approve for adoption, by Board Order, amendments to §§291.72 and 291.73. The motion was seconded by Mr. Abeltdt and passed unanimously.

- Rules Concerning Generic Substitution (§§309.3 and 309.4) and Repeal of Rules Concerning Labeling Requirements (§309.5) (Tab 07)

Ms. Benz explained that the Board voted to propose the amendments to §§309.3 and 309.4 and repeal of §309.5 during its August 10-11, 2010, meeting. The proposed amendments and repeal were published in the October 1, 2010, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to amendments to §§309.3 and 309.4 and the repeal of §309.5 and explained that the amendments and repeal clarify the requirements for generic substitution on electronic prescription drug orders, remove the language regarding substitution of dosage form since is duplicative of language in §291.33, eliminate date references, and repeal §309.5 since the language is in §291.33.

Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Mr. Abeldt to approve for adoption, by Board Order, amendments to §§309.3 and 309.4 and repeal of §309.5. The motion was seconded by Ms. Kedron and passed unanimously.

Proposal of Rules

- Rules Concerning Address of Record (§§281.2, 281.30, 283.4, 283.7, 283.8, 291.1 and 297.3) (Tab 08)

Ms. Benz directed the Board's attention to suggested amendments to §§281.2, 281.30, 283.4, 283.7, 283.8, 291.1 and 297.3 and explained the amendments define confidential address of record and public address of record, and clarify application requirements for pharmacies, pharmacists, interns, pharmacy technicians, and pharmacy technician trainees.

Following discussion, the motion was made by Mr. Wetherbee to approve for proposal amendments to §§281.2, 281.30, 283.4, 283.7, 283.8, 291.1 and 297.3. The motion was seconded by Mr. Fry and passed unanimously.

- Rules Concerning Definition of Ceasing to Operate a Pharmacy (§§291.3 and 291.11) (Tab 09)

Ms. Benz directed the Board's attention to suggested amendments to §§291.3 and 291.11 and explained the amendments change the definition regarding the length of time a pharmacy could discontinue operating as a pharmacy, without notifying the Board that the pharmacy is closed. The change would reduce the time that a pharmacy could be closed, yet continue to hold an active pharmacy license, from 6 months to 30 days.

Following discussion, the motion was made by Mr. Wetherbee to approve for proposal amendments to §§291.3 and 291.11. The motion was seconded by Ms. Tipton and passed unanimously.

- Rules Concerning Samples (§§291.16, 291.33, 291.74, 291.76, and 291.151) (Tab 10)

Ms. Benz directed the Board's attention to proposed new rule §291.16 and suggested amendments to §§291.33, 291.74, 291.76, and 291.151 and explained the new rule and amendments remove the requirements regarding samples from the specific pharmacy classes and move the requirements to a new section under All Classes of Pharmacy.

Following discussion, the motion was made by Mr. Fry to approve for proposal new rule §291.16 and amendments to §§291.33, 291.74, 291.76, and 291.151. The motion was seconded by Mr. Abeldt and passed unanimously.

- Rules Concerning Clarification of Inventory Requirements (§291.17) (Tab 11)

Ms. Benz directed the Board's attention to suggested amendments to §291.17 and explained the amendments add Class F pharmacy to the inventory requirements for pharmacies, removes references to carisoprodol, and removes references to products no longer available.

Following discussion, the motion was made by Mr. Fry to approve for proposal amendments to §291.17. The motion was seconded by Mr. Abeldt and passed unanimously.

- Rules Concerning Duties of Pharmacy Technician and Pharmacy Technician Trainees (§291.32) (Tab 12)

Ms. Benz directed the Board's attention to suggested amendments to §291.32 and explained the amendments specify duties that may be performed by pharmacy technicians and clarify duties that may not be performed by other individuals.

Following discussion, the motion was made by Mr. Wetherbee to approve for proposal amendments to §291.32. The motion was seconded by Ms. Combs and passed unanimously.

- Rules Concerning Records Relating to Dispensing Errors (§291.34) (Tab 13)

Ms. Benz directed the Board's attention to suggested amendments to §291.34 and explained the amendments clarify the requirements for making alterations to prescription records following a dispensing error and correct references.

Following discussion, the Board directed staff to develop suggested rule language that would further clarify the requirements for making alterations following a dispensing error for consideration by the Board at the February 2011 meeting.

- Rules Concerning Continuing Education Requirements (§295.8)
(Tab 14)

Ms. Benz directed the Board's attention to suggested amendments to §295.8 and explained the amendments clarify the requirements for continuing education during a licensee's initial licensure period.

Following discussion, the motion was made by Ms. Tipton to approve for proposal amendments to §295.8. The motion was seconded by Mr. Fry and passed unanimously

- Rules Concerning Complaints Filed Against Employees (§311.1)
(Tab 15)

Ms. Benz directed the Board's attention to suggested amendments to §311.1 and explained the amendments clarify the requirements for filing a complaint against a Board employee, including peace officers.

Following discussion, the motion was made by Mr. Wetherbee to approve for proposal amendments to §311.1. The motion was seconded by Mr. Abeldt 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 (§§291.1-291.3, 291.5-291.11, 291.14-291.15, 291.17-291.19, 291.22-291.24, 291.27-291.29)
Concerning Pharmacies (All Classes of Pharmacies) (Tab 17)
- Chapter 291 (§§291.91-291.94) Concerning Pharmacies
(Clinic Pharmacy) (Class D) (Tab 18)

Following discussion, in accordance with Government Code §2001.039, the motion was made by Ms. Kedron to approve for proposal, as presented, the review of Chapter 291 (§§291.1-291.3, 291.5-291.11, 291.14-291.15, 291.17-291.19, 291.22-291.24, 291.27-291.29) and Chapter 291 (§§291.91-291.94). The motion was seconded by Mr. Fry and passed unanimously.

President Waggener recessed the meeting at 10:18 a.m.

President Waggener reconvened the meeting at 10:30 a.m.

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

- Report on TSBP Sampling of Compounded Products (Tab 24)

Ms. Dodson presented the *Summary of Compounded Sample Testing by Fiscal Year*, for the years of 2008, 2009 and 2010. Ms. Dodson reported that, as in previous years, the samples that failed did so because of potency. She also indicated that there were no identified problems with sterility. She explained that TSBP notifies pharmacies of the results of the testing.

- Discussion Concerning Requirement to Report to Healthcare Integrity and Protection Data Bank (HIPDB) (Tab 25)

Ms. Dodson presented a brochure that TSBP designed that explains the requirement to report sanctions to HIPDB. She explained the brochure would be posted on the TSBP website. Additionally, she presented the HIPDB Guidebook.

Ms. Dodson presented a summary table with the results of a survey of state boards of pharmacy regarding their reporting to HIPDB. She stated that 23 states participated in the survey and all of them report to HIPDB.

Mr. Wiesner reported that he had done research and it was his understanding that the intent of the HIPDB program was to gather information on healthcare competency and to help address fraud, waste, and abuse.

Ms. Arnold explained that if TSBP failed to report sanctions to HIPDB, HIPDB would notify the Governor of Texas and include TSBP on a non-compliance list that is published by HIPDB.

Mr. Wiesner asked if TSBP could assign some sanctions a ranking that would exempt them from the requirement to be reported to HIPDB. Ms. Arnold explained that the ranking of sanctions was not possible with statutes as now written. Each type of sanction is considered the same, and all sanctions are currently reported to HIPDB and also posted on the TSBP website.

- Discussion Concerning Request from CommUnityCare for Clarification of Rules Concerning Class D Pharmacies (Tab 26)

Ms. Waggener recognized Bob Brown, R.Ph., Pharmacy Director, for CommUnityCare. Mr. Brown explained that CommUnityCare operates clinics across Travis County and the majority of them have Class D

pharmacies. Mr. Brown requested the Board consider revising certain definitions and adding two definitions to clarify rules concerning Class D pharmacies.

Following discussion, the Board directed staff to develop suggested rule language concerning Class D pharmacies for consideration by the Board at the February 2011 meeting.

- Update Federal Issues (Tab 28)

Ms. Dodson presented information concerning the new *Secure and Responsible Drug Disposal Act*. She explained the new law allows patients to deliver unused prescription controlled substances to appropriate entities for disposal and also allows for the authorization of controlled substance disposal by long-term health care facilities on behalf of patients. In addition, Ms. Dodson explained that DEA has recently clarified the "Role of Authorized Agents" in communicating controlled substance prescription to pharmacies. This clarification reverses a previous ruling of DEA and now allows a nurse in a long-term care facility to be an agent of a physician.

President Waggener recessed the meeting at 11:40 a.m.

President Waggener reconvened the meeting at 12:40 p.m.

Ms. Mendoza joined the meeting at 12:40 p.m.

- Financial Update

- Review and Approval of FY2010 Operating Budget (Tab 19)

Ms. Dodson reviewed the expenditures for all four quarters of FY2010 (September 1, 2009 - through August 31, 2010) for the Board. She noted that the agency ended the year with about \$7,000 remaining or 0.12% of the \$5.8 million appropriation.

Following discussion the motion was made by Mr. Fry to approve the FY2010 expenditures as presented. The motion was seconded by Ms. Mendoza and passed unanimously.

- Review of Board Member Travel Budget (Tab 20)

Ms. Dodson reviewed the Board Member FY2010 Travel Budget.

- Update on Legislative Appropriations Request for FY2012-2013 (Tab 21)

Ms. Dodson reported that she and staff presented TSBP's Legislative Appropriation Request to the staff of the Legislative Budget Board and the Governor's Budget Office, on August 18, 2010.

- Professional Recovery Network

- President Waggener recognized Donna Chamberlain, Director of the Pharmacy Recovery Network (PRN). Ms. Chamberlain directed the Board's attention to the PRN budget for FY2010 (September 1, 2009, through August 31, 2010), and reviewed current PRN activities for the Board. (Tab 23)
- Ms. Fisher discussed the charts which reflect the performance measures regarding the number of individuals participating in the peer assistance program for the past three fiscal years (FY2008-2010). (Tab 22)

- Update and Discussion Regarding Implementation of Rules Requiring Pharmacies to Document the Identity of the Counseling Pharmacist (Tab 29)

Ms. Dodson presented the rules concerning documentation of the pharmacist providing patient counseling (§291.33).

Mr. Wiesner stated that a large percentage of the time it is not the patient but an agent of the patient who receives the counseling and the agent must then pass the information along to the patient.

Ms. Tipton stated that counseling should never be considered an option as patients do not know what they do not know.

Ms. Dodson stated that at this time enforcement of the rules is in the educational stage and TSBP will not issue Warning Notices until next year.

Following discussion the Board directed staff to develop suggested rule language concerning documenting the identity of the counseling pharmacist to include the option of using a written log for documenting counseling, for consideration by the Board at the February 2011 meeting.

- Discussion Concerning Suggestions from Doyle High, R.Ph., of a “*plan that would save the board money and make the system work a lot more efficiently*” when enforcing the law requiring pharmacy technicians to be registered and have a current registration when working (Tab 27)

Ms. Waggener recognized Doyle High, R.Ph. Mr. High made a presentation to the Board concerning the requirement that pharmacy technicians and pharmacy technician trainees be registered. Mr. High presented suggestions for improving the TSBP website and recommendations for increasing communication with and education of pharmacy technicians, pharmacy technician trainees, and Pharmacists-in-Charge.

Ms. Waggener thanked Mr. High for his presentation and stated that TSBP is always open to suggestions concerning ways to improve communication and education.

- Update on TSBP Action on Legislation Passed During the 81st Session of the Texas Legislature that has an Impact on TSBP and/or the Practice of Pharmacy (Tab 30)

Ms. Dodson directed the Board’s attention to an action chart concerning legislation that was passed during the 81st 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.

- Discussion of Possible Statutory Changes for Consideration During the 82nd Session of the Texas Legislature (Tab 31)

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

E. Consideration of and Possible Action Concerning Enforcement Reports

- Petitions 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 three petitions from the following individuals.

- o Sandhya Sunil Shenoy, R.Ph. (Tab 32)

Ms. Fisher reviewed the petition and supporting documentation from Sandhya Sunil Shenoy, R.Ph. The motion was made by Ms. Mendoza that the Board approve the petition of Sandhya Sunil Shenoy, R.Ph., to serve as a preceptor. The motion was seconded by Mr. Fry and passed unanimously.

- o Timmy Van Le, Pharm.D. (Tab 33)

Ms. Fisher reviewed the petition and supporting documentation from Timmy Van Le, Pharm. D. The motion was made by Mr. Fry that the Board approve the petition of Timmy Van Le., Pharm. D., to serve as a preceptor. The motion was seconded by Mr. Wetherbee and passed unanimously.

- o Lance Ray, Pharm.D. (Tab 34)

Ms. Fisher reviewed the petition and supporting documentation from Lance Ray., Pharm.D., to serve as a preceptor. The motion was made by Mr. Fry that the Board approve the petition of Lance Ray, Pharm.D., to serve as a preceptor. The motion was seconded by Ms. Mendoza and passed unanimously.

President Waggener recessed the meeting at 2:50 p.m.

President Waggener reconvened the meeting at 3:30 p.m.

- Report on Complaints Closed and Dismissed During the Previous Quarter (Tab 35)

The Board received a report on complaints dismissed and closed during FY2010 (September 1, 2009 – August 30, 2010). The report also included quarterly averages for FY2009 as compared to FY2010, as well as percentage change from FY2009 to FY2010. Ms. Fisher reviewed the report for the Board.

- Report on Status of Active/Pending Complaints (Tab 36)

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

F. Disciplinary Orders

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 37)
 - The Board reviewed 51 Technician Agreed Board Orders that had been entered by the Executive Director on behalf of the Board, in accordance with the Board's directives, during the period August 17, 2010, through November 4, 2010.
 - The Board reviewed 22 Agreed Board Orders concerning pharmacy technicians, 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 August 23, 2010, through October 20, 2010.
- Discussion of and Action on Proposed Agreed Board Orders and Proposed Default Board Orders (Tab 38)
 - The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following 23 proposed Agreed Board Orders concerning pharmacy technicians and pharmacy technician trainees who appeared for an informal conference and 24 proposed Default Board Orders concerning pharmacy technicians and pharmacy technician trainees who did not appear for informal conferences.

Agreed Board Orders

1. Anibal Albizures	ABO #T-09-603
2. Angelica Yenely Alvarado	ABO #T-09-732
3. Crystal Farfan Barajas	ABO #T-10-112
4. Prisila Cano	ABO #T-09-494-N
5. Jon Catley	ABO #T-10-247
6. Christopher Mitchell	ABO #T-09-662-N
7. Shannon Nachel Samples	ABO #T-10-157
8. Bobby Smith	ABO #T-09-647-N
9. Jennifer Nicole Hoskins	ABO #T-09-686
10. Patricia Ann Ingerson	ABO #T-10-168
11. Anthony Maurice Lenzy	ABO #T-10-220-N
12. Jesus Dario Ramirez	ABO #T-10-365
13. Courtney Bernard Roberson	ABO #T-10-102-N
14. Joshua Mark Wojciechowski	ABO #T-09-688-N

15.	Brandi D'Ann Boehl	ABO #T-10-212-N
16.	Mike Dominguez	ABO #T-09-588-N
17.	Stephanie Taylor Garrett	ABO #T-09-677-N
18.	Mary Ann Longoria	ABO #T-10-218
19.	Eric Lopez	ABO #T-10-280
20.	Javier Lara Martinez	ABO #R-09-005-T
21.	Julie Ann Medina	ABO #T-10-306-N
22.	Antonio Valdez Rodriguez	ABO #T-10-394-N
23.	Marsha Thomas	ABO #T-09-743

Default Board Orders

24.	Leigh Broyles Montgomery	BO #T-10-240
25.	Linda Martina Oliver	BO #T-10-208-N
26.	Vanessa Yvonne Pervis	BO #T-10-174
27.	Adam Marclino Reyna	BO #T-10-345-N
28.	Lindsay Caitlin Simpkins	BO #T-10-158
29.	James Love	BO #T-10-243-N
30.	Courtney Marie Matthews	BO #T-10-399-N
31.	Bobby Thanh Nguyen	BO #T-10-238
32.	Zelina Oneida Oviedo	BO #T-10-184
33.	Carlos R. Ortiz-Roman	BO #T-10-231-N
34.	Shayna Dee Stehsel	BO #T-10-167-N
35.	Jaspreet Sidhu	BO #T-09-709
36.	Amy Lynn Sigert	BO #T-10-227-N
37.	Eric Michael Vega	BO #T-10-272-N
38.	April Rene Batt	BO #T-10-248-N
39.	Christina Jean Earl	BO #T-10-203
40.	Clara Catrinia Goodloe	BO #T-10-361-N
41.	Michelle R. Harley	BO #T-10-294
42.	Ryan McKinnon	BO #T-10-313
43.	Carlos Luis Mendoza	BO #T-10-367-N
44.	A'nita Rechelle' Moorhead	BO #T-10-281-N
45.	Raphael Pedroza	BO #T-10-322-N
46.	Agustin G. Rodriguez	BO #T-10-362
47.	Fernando Villanueva	BO #T-10-236

- The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following 33 proposed Agreed Board Orders (Alternative Resolutions); 37 proposed Agreed Board Orders concerning pharmacists, pharmacies, students, pharmacist-interns, and pharmacy technicians who appeared for an informal conference; and one proposed Default Board Order concerning a technician who did not appear for informal conference.

Agreed Board Orders (Alternate Resolutions)

48.	Stacey Jean Hargroue	ABO #H-10-007-A
49.	CVS/pharmacy #7293	ABO #H-10-007-B
50.	Ann Grappe Capps	ABO #H-10-012-A
51.	United Pharmacy #509	ABO #H-10-012-B
52.	Ruben Zuniga Limones	ABO #H-09-061-A
53.	H.E.B. Pharmacy #556	ABO #H-09-061-B
54.	CVS/pharmacy #7207	ABO #H-10-024
55.	Kmart Pharmacy #7795	ABO #H-09-003-B
56.	Walgreen Co. #3504	ABO #H-09-035-B
57.	Michael Jerome Taylor	ABO #H-09-025-A
58.	Brookshire Pharmacy #125	ABO #H-09-025-B
59.	Kroger Pharmacy #516	ABO #H-09-052-B
60.	H.E.B. Pharmacy #568	ABO #H-09-026
61.	Stacey Lawing Gray	ABO #H-09-058-A
62.	Wal-Mart Pharmacy #10-1022	ABO #H-09-058-B
63.	Sarah B. Zafar	ABO #H-09-062-A
64.	CVS/pharmacy #7390	ABO #H-09-062-B
65.	Rahel A. Schindler	ABO #H-10-025-A
66.	CVS/pharmacy #2977	ABO #H-10-025-B
67.	Alonzo Grape	ABO #J-10-002-A
68.	Walgreens Co. #4858	ABO #J-10-002-B
69.	John Mistician	ABO #H-10-005-A
70.	Laurel Heights Pharmacy, Inc.	ABO #H-10-005-B
71.	Maria Esther Fuentes	ABO #H-09-046-A
72.	Walgreen Co. #10615	ABO #H-09-046-B
73.	Stacey S. Grajeda	ABO #H-10-019-A
74.	Walgreen Co. #9173	ABO #H-10-019-B
75.	Stephanie Anne Proffer Jimes	ABO #H-09-056-A
76.	Wal-Mart Pharmacy #10-5092	ABO #H-09-056-B
77.	Tim Thinh Tran	ABO #H-10-002-A
78.	Walgreen Co. #5508	ABO #H-10-002-B
79.	Walgreen Co. #4395	ABO #H-09-016-B
80.	David Wayne Rice	ABO #N-10-020

Agreed Board Order (Following an Informal Conference)

81.	Theodore Yariyep Lot	ABO #M-10-011
82.	Juan A. Ortiz	ABO #T-10-423
83.	Lawrence Joseph Scurria	ABO #B-08-008-A
84.	Ronald Rene Woody	ABO #B-08-010-A
85.	Vincent Jerome Anselmo	ABO #H-08-046-A
86.	Walgreen Co. #9507	ABO #H-08-046-B
87.	Pavankumar Digamber Rao	ABO #H-10-039-A
88.	Walgreen Co. #2755	ABO #H-10-039-B

89.	Achinike Livinus Ofoleta	ABO #F-10-017
90.	Mariam Uwani Abubakar	ABO #H-09-050-A
91.	Dung Tran Nguyen	ABO #F-10-003
92.	Ann Phi Luu	ABO #K-10-021-A
93.	Tisha Lanee Hendricks	ABO #K-09-001-A
94.	Brookshire Brothers Pharmacy#15	ABO #B-08-053
95.	Walgreen Co. #9908	ABO #H-10-013-B
96.	Walgreen Co. #7491	ABO #H-10-001-B
97.	Walgreen Co. #4839	ABO #H-09-012-B
98.	Maryana Attalla	ABO #K-10-006-A
99.	Katy Pharmacy	ABO #K-10-006-B
100.	Nikki Ndi Ajieren	ABO #B-10-009-A
101.	Modern Automated Pharmacy	ABO #B-10-009-B
102.	Brinda Dipul Patel	ABO #H-10-008-A
103.	CVS/pharmacy #7459	ABO #H-10-008-B
104.	Jasper Okay Ileka	ABO #L-09-027
105.	Tram Phuong Joe	ABO #H-09-042
106.	Ifeoma Celestina Umeh	ABO #H-09-049-A
107.	Walgreen Co. #3924	ABO #H-09-049-B
108.	Kianoush Dadyan	ABO #K-10-027-A
109.	CVS/pharmacy #5962	ABO #K-10-027-B
110.	Walgreen Co. #4927	ABO #H-10-017-B
111.	Curtis Eugene Muniz	ABO #J-10-007
112.	Ponderosa Pharmacy	ABO #F-10-022
113.	Amy Adams McNeely	ABO #L-09-020
114.	Gary Douglas Osborn	ABO #J-08-026-A
115.	Apothecure, Inc.	ABO #J-08-026-B
116.	Brookfield Pharmacy L.L.C.	ABO #E-10-008-B
117.	Walgreen Co. #7328	ABO #H-10-033-B

Default Board Order (Following an Informal Conference)

118.	Heidi Lynne LeClair	ABO #T-10-278
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The motion was made by Mr. Fry to approve the 23 proposed Agreed Board Orders concerning pharmacy technicians and pharmacy technician trainees who appeared for an informal conference and 24 proposed Default Board Orders concerning pharmacy technicians and pharmacy technician trainees who did not appear for informal conferences; the 33 proposed Agreed Board Orders (Alternative Resolutions); and 37 proposed Agreed Board Orders concerning pharmacist, pharmacies, students, pharmacist-interns, and pharmacy technicians who appeared for an informal conference; and one proposed Default Board Order concerning a technician who did not appear for informal conference.

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

1. 7-0-1 Mr. Wiesner abstained
2. 7-0-1 Ms. Mendoza abstained
3. 7-0-1 Ms. Mendoza abstained
4. 7-0-1 Ms. Mendoza abstained
5. 7-0-1 Ms. Mendoza abstained
6. 7-0-1 Ms. Mendoza abstained
7. 7-0-1 Ms. Mendoza abstained
8. 7-0-1 Ms. Mendoza abstained
9. 7-0-1 Mr. Wetherbee abstained
10. 7-0-1 Mr. Wetherbee abstained
11. 7-0-1 Mr. Wetherbee abstained
12. 7-0-1 Mr. Wetherbee abstained
13. 7-0-1 Mr. Wetherbee abstained
14. 7-0-1 Mr. Wetherbee abstained
15. 8-0-0
16. 8-0-0
17. 8-0-0
18. 8-0-0
19. 8-0-0
20. 8-0-0
21. 8-0-0
22. 8-0-0
23. 8-0-0
24. 7-0-1 Ms. Mendoza abstained
25. 7-0-1 Ms. Mendoza abstained
26. 7-0-1 Ms. Mendoza abstained
27. 7-0-1 Ms. Mendoza abstained
28. 7-0-1 Ms. Mendoza abstained
29. 7-0-1 Mr. Wetherbee abstained
30. 7-0-1 Mr. Wetherbee abstained
31. 7-0-1 Mr. Wetherbee abstained
32. 7-0-1 Mr. Wetherbee abstained
33. 7-0-1 Mr. Wetherbee abstained
34. 7-0-1 Mr. Wetherbee abstained
35. 7-0-1 Mr. Wetherbee abstained
36. 7-0-1 Mr. Wetherbee abstained
37. 7-0-1 Mr. Wetherbee abstained
38. 8-0-0
39. 8-0-0
40. 8-0-0
41. 8-0-0
42. 8-0-0
43. 8-0-0

- 44. 8-0-0
- 45. 8-0-0
- 46. 8-0-0
- 47. 8-0-0
- 48. 8-0-0
- 49. 8-0-0
- 50. 8-0-0
- 51. 8-0-0
- 52. 7-0-1 Mr. Wiesner abstained
- 53. 7-0-1 Mr. Wiesner abstained
- 54. 8-0-0
- 55. 8-0-0
- 56. 8-0-0
- 57. 8-0-0
- 58. 8-0-0
- 59. 8-0-0
- 60. 7-0-1 Mr. Wiesner abstained
- 61. 8-0-0
- 62. 8-0-0
- 63. 8-0-0
- 64. 8-0-0
- 65. 8-0-0
- 66. 8-0-0
- 67. 8-0-0
- 68. 8-0-0
- 69. 8-0-0
- 70. 8-0-0
- 71. 8-0-0
- 72. 8-0-0
- 73. 8-0-0
- 74. 8-0-0
- 75. 8-0-0
- 76. 8-0-0
- 77. 8-0-0
- 78. 8-0-0
- 79. 8-0-0
- 80. 8-0-0
- 81. 7-0-1 Ms. Tipton abstained
- 82. 7-0-1 Ms. Mendoza abstained
- 83. 8-0-0
- 84. 7-0-1 Mr. Wetherbee abstained
- 85. 7-0-1 Ms. Mendoza abstained
- 86. 7-0-1 Ms. Mendoza abstained
- 87. 7-0-1 Ms. Mendoza abstained
- 88. 7-0-1 Ms. Mendoza abstained
- 89. 7-0-1 Ms. Tipton abstained

90. 7-0-1 Ms. Tipton abstained
91. 7-0-1 Ms. Tipton abstained
92. 7-0-1 Ms. Mendoza abstained
93. 7-0-1 Ms. Mendoza abstained
94. 7-0-1 Ms. Tipton abstained
95. 7-0-1 Ms. Mendoza abstained
96. 7-0-1 Ms. Mendoza abstained
97. 7-0-1 Ms. Mendoza abstained
98. 7-0-1 Ms. Tipton abstained
99. 7-0-1 Ms. Tipton abstained
100. 7-0-1 Ms. Tipton abstained
101. 7-0-1 Ms. Tipton abstained
102. 7-0-1 Ms. Mendoza abstained
103. 7-0-1 Ms. Mendoza abstained
104. 7-0-1 Ms. Kedron abstained
105. 7-0-1 Ms. Tipton abstained
106. 7-0-1 Ms. Mendoza abstained
107. 7-0-1 Ms. Mendoza abstained
108. 7-0-1 Ms. Mendoza abstained
109. 7-0-1 Ms. Mendoza abstained
110. 7-0-1 Ms. Mendoza abstained
111. 7-0-1 Ms. Tipton abstained
112. 7-0-1 Mr. Wetherbee abstained
113. 7-0-1 Ms. Tipton abstained
114. 7-0-1 Ms. Tipton abstained
115. 7-0-1 Ms. Tipton abstained
116. 7-0-1 Mr. Wetherbee abstained
117. 7-0-1 Ms. Mendoza abstained
118. 7-0-1 Ms. Tipton abstained

- Confidential Agreed Board Orders and Default Board Orders (Tab 39)

The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following 10 proposed Confidential Agreed Board Orders concerning pharmacists, pharmacies, and student pharmacist-interns.

The motion was made by Ms. Mendoza to approve the following 10 proposed Confidential Agreed Board Order as presented.

Agreed Board Orders

1. ABO #G-08-046
2. ABO #F-10-021
3. ABO #E-10-014
4. ABO #G-10-001

5. ABO #G-10-015
6. ABO #G-10-016
7. ABO #G-10-006
8. ABO #A-09-027
9. ABO #N-10-024
10. ABO #N-10-021

The motion were seconded by Mr. Fry and passed as follows:

1. Ms. Mendoza abstained
2. Ms. Tipton abstained
3. Ms. Tipton abstained
4. Mr. Fry abstained
5. Mr. Wiesner abstained
6. Ms. Mendoza abstained
7. Ms. Tipton abstained
8. Ms. Mendoza abstained
9. Ms. Mendoza abstained
10. Ms. Mendoza abstained

G. Miscellaneous

- Items to be Placed on Agenda for February 2011 Board Meeting (Tab 40)

Board Members and/or Ms. Dodson requested that the following items be placed on the agenda for the February 2011 Board

- Suggested rule language concerning documenting the identity of the counseling pharmacist to include: the option of using a written log; specific rules on what the log should include; and a provision to allow documentation to occur not at the time of counseling but later in the day.
- As recommended by Ms. Tipton, a suggested amendment to the rules regarding restocking of an automated supply cabinet.
- Report on review concerning compounding of sterile cytotoxic products.
- Report regarding whether the Dangerous Drug Act would allow a pharmacist to dispense up to a 90 day supply if there are appropriate refills on prescription.

- Discussion of and Possible Action on Recent Conferences and Events

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

Ms. Waggener reported that she had recently attended a MALTA-GON conference held in Little Rock, Arkansas. Ms. Waggener explained that MALTA-GON was an organization of state boards of pharmacy. Ms. Waggener recommended that TSBP join MALTA-GON. The motion was made by Ms. Combs that TSBP petition to join MALTA-GON. The motion was seconded by Ms. Mendoza and passed unanimously.

- 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 4:10 p.m.

APPROVED:

Jeanne D. Waggener, R.Ph.
President

Gay Dodson, R.Ph.
Executive Director/Secretary

February 8, 2011